

TOWN OF ERIE
Ordinance No. 42-2020

**An Ordinance of the Board of Trustees of the Town of Erie
Amending Title 3 of the Erie Municipal Code by the Addition of a
New Chapter 7, Concerning the Board of Adjustment**

Whereas, currently, the organization and procedures of the Board of Adjustment are located in Chapter 8 of Title 10 of the Erie Municipal Code; and

Whereas, the Board of Trustees desires to move the code sections regarding the organization and procedures of the Board of Adjustment to Title 3 of the Erie Municipal Code, with all other boards, commissions and committees.

Now Therefore be it Ordained by the Board of Trustees of the Town of Erie as follows:

Section 1. Chapter 8 of Title 10 of the Erie Municipal Code is hereby repealed in its entirety.

Section 2. Title 3 of the Erie Municipal Code is hereby amended by the addition of a new Chapter 7 to read as follows:

Chapter 7 - BOARD OF ADJUSTMENT

3-7-1. Establishment.

The Board of Adjustment (the "BOA") is hereby created pursuant to the authority granted by C.R.S. § 31-23-307.

3-7-2. Purpose and duties.

The purpose of the BOA is to fulfill the responsibilities set forth in C.R.S. § 31-23-307 and Title 10 of this Code. The BOA shall have the review and decision-making responsibilities as set forth in Title 10 of this Code.

3-7-2. Appointment, compensation, terms and removal.

A. Appointment:

1. The BOA shall consist of five (5) regular members, each of whom shall be residents of the Town.

2. All members of the BOA shall be appointed by the Board of Trustees.

3. If any member ceases to reside in the Town, their membership on the BOA shall immediately terminate.

4. In addition to the regular members, the Board of Trustees may appoint two (2) alternate members. In the event that any regular member is temporarily unable to act owing to absence from the Town, illness, interest in a case before the BOA or any other cause, their place may be taken during such temporary disability by an alternate member who shall then enjoy full voting privileges.

B. Compensation: All members of the BOA shall serve without compensation.

C. Terms: All regular and alternate members shall serve staggered three (3) year terms, provided that the Board of Trustees is authorized to shorten or lengthen terms as necessary to maintain the stagger.

D. Removal:

1. The Board of Trustees may remove any member, following notice to the member, for any of the following reasons:

a. If the member is found to have participated in any matter before the Board when the member had a conflict of interest in that matter;

b. If the member fails to meet the attendance requirements set forth in the BOA's adopted rules and regulations;

c. If the member's conduct is contrary to the goals and objectives of the Town; or

d. If the member violates any applicable law, rule or regulation while serving on the BOA.

2. Prior to removing any member of the BOA, the Board of Trustees shall provide written notice to such member, including the reasons for the proposed removal, and an opportunity to be heard at a public meeting of the Board of Trustees.

3-7-3. Officers.

A. Election: At its first meeting following each regular Town election, the BOA shall elect from among its members by a majority vote a Chair, Vice-Chair, and Secretary, each to serve for a term of one (1) year.

B. Duties: The Chair shall preside at all meetings of the BOA. The Vice Chair shall assume the duties and responsibilities of the Chair if the Chair is absent or unable to perform. The Secretary shall keep a record of all proceedings of the BOA.

C. Term: The term of each office shall be one (1) year, or until the first meeting of the BOA following each regular Town election, whichever is shorter.

D. Vacancies: A vacancy in the office of Chair shall be filled automatically by the Vice Chair, and a new Vice Chair shall be elected at the next meeting of the BOA from among the remaining members. A vacancy in the office of Vice Chair or Secretary shall be filled at the next meeting of the BOA from among the remaining members.

3-7-4. Bylaws.

The BOA shall adopt bylaws, which bylaws must be approved by the Board of Trustees. Any amendment to the bylaws must be approved by both the BOA and the Board of Trustees.

3-7-5. Meetings.

A. Open Meetings: All meetings of the BOA shall be open to the public.

B. Witnesses: The Chair, or in their absence the Vice-Chair, may administer oaths and compel the attendance of witnesses.

C. Agenda: The agenda for each regular meeting shall be prepared by the secretary and shall be distributed to each BOA member at least twenty-four (24) hours prior to the meeting.

D. Quorum: A majority of the full membership of the BOA shall constitute a quorum for the transaction of business.

E. Voting: The concurring vote of four (4) members of the BOA shall be required to approve variances and to overturn decisions made by the Community Development Director or other Town staff presented to the BOA. Action by the BOA on any other matters shall require a favorable majority vote of the members present at the time of the vote.

F. Representatives: Persons appearing before the BOA may appear in person or through a representative, agent, or attorney. The representative shall provide satisfactory proof of their authority to represent upon the request of the BOA.

G. Minutes: The BOA shall keep minutes of its proceedings showing the vote of each member and shall file such minutes with the Town Clerk.

Section 3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 4. Safety. The Board of Trustees finds that the adoption of this Ordinance is necessary for the protection of the public health, safety and welfare.

Section 5. Effective Date. This Ordinance shall take effect 30 days after publication following adoption.

Introduced, Read, Passed and Ordered Published this 11th day of November, 2020.

Jennifer Carroll, Mayor

Attest:

Heidi Leatherwood, Town Clerk