

ORDINANCE NO. ___-2018

AN ORDINANCE OF THE TOWN OF ERIE, COLORADO IMPOSING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, PROCESSING, AND APPROVAL OF ANY APPLICATIONS UNDER THE UNIFIED DEVELOPMENT CODE RELATED TO OIL AND GAS EXPLORATION, EXTRACTION, AND RELATED OPERATIONS; DIRECTING THE INVESTIGATION OF THE REGULATORY PRACTICES OF OTHER MUNICIPAL GOVERNMENTS AS THEY RELATE TO REGULATION OF OIL AND GAS EXPLORATION, EXTRACTION, AND RELATED OPERATIONS; DIRECTING THE PROMPT INVESTIGATION OF THE TOWN'S UNIFIED DEVELOPMENT CODE AS IT RELATES TO REGULATION OF OIL AND GAS EXPLORATION, EXTRACTION, AND RELATED OPERATIONS; AND, DECLARING THE INTENTION OF THE TOWN BOARD OF TRUSTEES TO CONSIDER APPROPRIATE REVISION OF THE UNIFIED DEVELOPMENT CODE AS IT RELATES TO REGULATION OF OIL AND GAS EXPLORATION, EXTRACTION, AND RELATED OPERATIONS.

WHEREAS, the Board of Trustees of the Town of Erie, Colorado finds that it is important to understand, minimize and regulate the adverse impacts of oil and gas exploration, extraction, and related operations (“Oil and Gas Development”) on the health, safety, and welfare of the Town and its citizens, and that such regulation may be achieved through zoning, the exercise of police power and land use regulations; and,

WHEREAS, considerable concern has been voiced regarding the impacts to public health, safety, welfare and the environment, such as degradation of water quality and air quality impacts, compatibility with other land uses, and impact to property rights regarding Oil and Gas Development within and surrounding the Town; and,

WHEREAS, Oil and Gas Development, presents health, safety, welfare and environmental issues that may be addressed, minimized or otherwise regulated by the exercise of police power through municipal land use authority; and,

WHEREAS, the Uniform Development Code (“UDC”) as set forth in the Town of Erie Municipal Code (“Code”) sets forth the general purpose of the Town's land use regulations as follows: "This title has as its general purpose the promotion of the health, safety, and general welfare of the town of Erie;" and,

WHEREAS, the Town Board of Trustees is determined to study whether the Town’s existing land use regulations pertaining to Oil and Gas Development are sufficient to protect the public health, safety, welfare, and the environment or whether additional regulations are necessary to address the negative impacts of Oil and Gas Development; and

WHEREAS, the Town Board of Trustees desires to investigate the regulatory practices of other municipal governments as they relate to Oil and Gas Development in order to determine whether the Town may advance its intent to protect health, safety, welfare, and the environment of the residents of the Town by using said regulations to inform changes to the Town's UDC; and

WHEREAS, the Town desires to allow Oil and Gas Development within the Town subject to the protection of public, health, safety, welfare and the environment as required by the Town's land use authority; and

WHEREAS, the present UDC regulations that govern Oil and Gas Development may need to be revised in light of the Town's investigation of the regulatory practices of other municipal governments as they relate to Oil and Gas Development in order to preserve and protect the public health, safety, and welfare of the citizens and environment of the Town; and

WHEREAS, if land use applications, special use review applications, site review applications, or any other applications for approval to conduct Oil and Gas Development within the Town limits are submitted prior to the Town taking the steps as outlined herein and exploring all measures necessary to protect public health, safety, and welfare, irreparable harm may be done to the public health, safety, and welfare; and

WHEREAS, it is the Town Board of Trustees' belief, based upon information provided by the Community Development Department and Town staff, that numerous parties may seek approval to commence Oil and Gas Development on property within the Town limits within the next six (6) months; and,

WHEREAS, in light of the potential imminent requests to begin Oil and Gas Development within the Town limits prior to the Town's ability to take the steps outlined herein and to review and revise the present land use regulations of the Town which relate to Oil and Gas Development irreparable harm may be done to the public health, safety, welfare, and the environment; and,

WHEREAS, to address this situation, the Town Board of Trustees finds and determines that a six (6) month moratorium on the acceptance, processing and approval of any land use application, special use review applications, site review applications, or any other requests for approval to conduct Oil and Gas Development within the Town limits is necessary and reasonable for the purpose of allowing the Town to:

- 1) investigate the regulatory practices of other municipal governments as they relate to the regulation of Oil and Gas Development to determine whether additional Town regulations are necessary to protect and preserve the public health, safety, welfare and the environment;
- 2) investigate the Town's UDC as it relates to regulation of Oil and Gas Development to determine whether revisions and/or additional regulations are necessary to protect and preserve the public health, safety, welfare, and the environment;
- 3) make appropriate and necessary revision of the UDC as it relates to Oil and Gas Development in order to protect and preserve the public health, safety, welfare and the environment; and

4) allow continued Oil and Gas Development within the Town subject to new regulations resulting from the anticipated revisions to the UDC to protect and preserve the public health, safety, welfare and the environment; and

5) allow the Town to pursue the negotiation and finalization of new operator agreements relating to regulation of Oil and Gas Development in order to protect and preserve the public health, safety, welfare and the environment; and

WHEREAS, the Board of Trustees of the Town of Erie, Colorado, wishes to impose such a temporary six (6) month moratorium on the acceptance, processing and approval of any land use application, special use review applications, site review applications, or any other request for approval to conduct Oil and Gas Development within the Town limits; and

WHEREAS, the imposition of such a moratorium is required for the immediate preservation of public property, health, welfare, peace, safety, and the financial well-being of the Town; and

WHEREAS, the Town Board of Trustees has determined that it is in the best interest of the citizens of the Town to impose such a moratorium as set forth herein below.

NOW, THEREFORE, BE IT ORDAINED, BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1. Imposition of Temporary Moratorium on the Acceptance of Land Use Applications or Other Requests for Approval to Conduct Oil and Gas Development. Upon the adoption of this ordinance a moratorium is imposed upon the acceptance, processing, and approval of any and all land use applications, special use review applications, site review applications, or any other request for approval to conduct Oil and Gas Development within the Town limits (“Moratorium”). The Town staff and the Town of Erie Planning Commission are directed to refuse to accept for filing, and not to process or review, any such new applications or requests during the moratorium period.

Section 2. Effective Dates of Moratorium. The Moratorium imposed by this ordinance shall commence as of the date of the adoption of this ordinance, and shall expire at midnight on February 20, 2019, unless sooner repealed, and the period of effectiveness of this Ordinance is referred to herein as the “Effective Period”.

Section 3. Applicability.

3.1 Not Applicable to Completed Applications. This Moratorium shall not apply to the processing and review of any applications to conduct Oil and Gas Development within the Town limits that the staff has deemed complete prior to the adoption of this ordinance.

3.2 Operator Agreement Exception. The Moratorium imposed by this ordinance shall not be construed to affect acceptance, processing, and approval of requests to conduct Oil and Gas Operations pursuant to an existing or new operator agreement.

Section 4. Town Staff to Investigate Regulatory Practices of other Municipal Governments. Before the expiration of the Moratorium imposed by this ordinance the Town staff, together with such consultants that are deemed necessary, shall study the current regulatory practices of other municipal governments as they relate to the regulation of Oil and Gas Development, and promptly report the results of such investigation to the Town Board of Trustees.

Section 5. Town Staff to Investigate UDC and Regulations. Before the expiration of the Moratorium the Town staff, together with such consultants that are deemed necessary, shall study the Town's current land use regulations to determine whether additional or revisions to those land use regulations are necessary to protect and preserve the public health, safety, welfare and the environment and promptly report the results of such investigation to the Town Board of Trustees.

Section 6. Town Board of Trustees To Investigate UDC and Regulations. Before the expiration of the Moratorium, and following receipt of the investigations, reports and findings as required herein, the Town Board of Trustees shall consider and determine whether additional or revisions to the land use regulations are necessary to protect and preserve the public health, safety, welfare and the environment. Such consideration and determination shall be completed promptly and with due diligence. If directed to do so by the Town Board of Trustees, the Town staff, assisted by the Town Attorney and other consultants that are deemed necessary, shall prepare appropriate new and/or revised regulations for consideration by the Town Board of Trustees.

Section 7. Police Power Finding. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Erie and the inhabitants thereof.

Section 8. Authority. The Town Board of Trustees hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv) Section 31-15-401, C.R.S.(concerning municipal police powers); and, (v) Section 31-15-501 (concerning municipal power to regulate businesses).

Section 9. Severance Clause. If an 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 Town Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts may be declared invalid or unconstitutional.

Section 10. Repeal. All other ordinances or parts of any ordinances or other Code provisions in conflict herewith are hereby repealed.

Section 11. Effective Date. This ordinance shall take effect thirty (30) days after

publication following final passage.

**INTRODUCED, PASSED, ADOPTED AND ORDER PUBLISHED IN FULL BY
THE BOARD OF TRUSTEES OF THE TOWN OF ERIE THIS 10TH DAY OF JULY, 2018.**

PUBLISHED IN FULL ON THE _____ DAY OF JULY, 2018.

TOWN OF ERIE,
a Colorado municipal corporation

By: _____
Jennifer Carroll, Mayor

ATTEST:

By: _____
Jessica Koenig, Deputy Town Clerk

7/9/18 (2) non-emergency