

**TOWN OF ERIE
ORDINANCE NO. ____-2020**

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF ERIE EXTENDING THE TEMPORARY MORATORIUM ON THE ACCEPTANCE, PROCESSING AND APPROVAL OF ANY APPLICATIONS UNDER THE UNIFIED DEVELOPMENT CODE FOR OIL AND GAS EXPLORATION, EXTRACTION AND RELATED OPERATIONS UNTIL DECEMBER 28, 2020.

WHEREAS, the Town is charged with protecting the public health, safety, and welfare and safeguarding the environment and wildlife resources; and

WHEREAS, on July 18, 2018, the Board of Trustees adopted Ordinance 20-18, which imposed a temporary moratorium on the acceptance, processing and approval of any application under the Unified Development Code ("UDC") related to oil and gas exploration, extraction and related operations (the "Temporary Moratorium") to allow time for the Town to review and revise its oil and gas regulations; and

WHEREAS, on January 22, 2019, the Board of Trustees adopted Ordinance 02-2019, extending the Temporary Moratorium through August 13, 2019; and

WHEREAS, on April 16, 2019, the Governor signed SB 19-181, granting local governments express authority to regulate surface operations and nuisance impacts of oil and gas operations in order to better protect the health, safety, and welfare of its citizens and to safeguard the environment and wildlife resources; and

WHEREAS, the Colorado Oil and Gas Conservation Commission ("COGCC") and Colorado Air Quality Control Commission ("AQCC") initiated rulemakings following adoption of SB 19-181; and

WHEREAS, on June 25, 2019 the Board of Trustees adopted Ordinance 19-2019, extending the Temporary Moratorium through January 28, 2020 in order to analyze its regulatory authority under SB 19-181, analyze revisions to the AQCC Regulations Number 3 and 7, and to draft amendments to its regulations pertaining to oil and gas development and to receive and process public input; and

WHEREAS, on October 17, 2019, the Colorado Department of Public Health and Environment ("CDPHE") issued a lengthy study titled "Human Health Risk Assessment for Oil & Gas Operations in Colorado," which discusses human health impacts from oil and gas operations, and the COGCC announced that it will conduct site-specific air quality monitoring at sites near the Town; and

WHEREAS, on December 10, 2019, the Board of Trustees adopted Ordinance 45-2019, extending the Temporary Moratorium through July 28, 2020 in order to evaluate all of the public

input received, prepare additional amendments to provisions of the UDC pertaining to oil and gas development, and conduct public processes including public workshops and hearings by the Planning Commission and the Board of Trustees on those amendments; and

WHEREAS, the COGCC has initiated an extensive rulemaking procedure that will result in rules to protect public health, safety, wildlife and the environment. These rules will inform how local oil and gas regulations should be written to interface with the application of COGCC Rules. and

WHEREAS, the Town Staff needs additional time to review and understand the COGCC Rules once they are adopted and to prepare additional revisions as necessary to the UDC requirements pertaining to oil and gas development; and

WHEREAS, the Town has appointed a new Planning Commission that needs additional time to study oil and gas development issues and regulations, the proposed revisions to the COGCC Rules, and comment on proposed UDC requirements for oil and gas development; and

WHEREAS, during the time since the Town adopted and extended the Temporary Moratorium, the Town has investigated the regulatory practices of other municipal governments as they relate to oil and gas development, analyzed its regulatory authority under SB 19-181, analyzed revisions to AQCC regulations implementing SB 19-181, drafted proposed revisions to its oil and gas development regulations, conducted public work sessions and study sessions, received and processed public input, and participated in COGCC rulemaking procedures; and

WHEREAS, to complete its review of the COGCC Rules once they are adopted and to prepare revisions to the UDC requirements for oil and gas development on that basis, conduct additional workshops and solicit and process public comment, it is necessary for the Town to extend the temporary moratorium on the acceptance, processing or approval of any applications under the Town's Unified Development Code to allow oil and gas exploration, extraction or related operations within the Town or to enter into any operator agreement to allow oil and gas exploration, extraction and related operations within Town; and

WHEREAS, an additional five months, or until December 28, 2020, is a reasonable length of time to extend the Temporary Moratorium for the Town to further review and amend the Town's regulations relating to oil and gas exploration, extraction and related operations and engage the public in that process.

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

Section 1. Extension of Moratorium. The Temporary Moratorium on oil and gas exploration, extraction and related operations is hereby extended to December 28, 2020. During the Temporary Moratorium as extended by the Town, the Town shall not process or approve any applications under the Town's Unified Development Code to allow oil and gas exploration, extraction or related operations within the Town; and the Town shall not approve any operator agreement to allow oil and gas exploration, extraction or related operations within the Town.

Section 2. Work to be Conducted During Moratorium. During the Temporary Moratorium the Town staff will continue working with the Town Attorney, the Town's special counsel, and outside consultants to participate in rulemakings and evaluate Rules adopted by the COGCC; evaluate the results of additional air quality monitoring to be conducted by the COGCC; inform the new Planning Commission regarding oil and gas development issues and the Town's progress to-date with revisions to the UDC requirements for oil and gas development; continue working with neighboring jurisdictions on coordinating land use plans and powers; consult with technical experts to ensure that the Town's regulatory authority over oil and gas development is exercised effectively; continue to refine the revisions to the oil and gas regulations and other provisions of the UDC related to oil and gas exploration, extraction and related operations based on public and expert input; prepare forms and fee structures to implement amendments to the oil and gas regulations; and conduct public hearings with the Planning Commission and Board of Trustees for adoption of amendments to the oil and gas regulations, zoning regulations and other provisions of the UDC pertaining to oil and gas exploration, extraction and related operations.

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 ___ day of _____, 2020.

Jennifer Carroll, Mayor

ATTEST:

Heidi Leatherwood, Town Clerk