Town of Erie
Ordinance No. _____

An Ordinance of the Town Council of the Town of Erie Repealing Section 1-5-5 of the Erie Municipal Code and Repealing and Reenacting Chapter 7 of Title 1 of the Erie Municipal Code, All Regarding the Town Code of Conduct and Ethics

Whereas, the Town of Erie Home Rule Charter, at Section 3.01, requires the Town Council to adopt and maintain a Code of Conduct and Ethics by ordinance, which shall address Town Council conflicts of interest and behavior; and

Whereas, the Town Council finds it is in the best interest of the public health, safety and welfare to adopt this Code of Conduct and Ethics.

Now Therefore be it ordained by the Town Council of the Town of Erie, Colorado:

Section 1. Section 1-5-5 of the Erie Municipal Code is hereby repealed in its entirety.

Section 2. Chapter 7 of Title 1 of the Erie Municipal Code is hereby repealed in its entirety and reenacted as follows:

Chapter 7
Code of Conduct and Ethics

1-7-1 – Purpose and applicability.

A. *Intent.* It is the intent of the Town that its elected officials and appointees adhere to high levels of ethical conduct, honesty, integrity and accountability so that the public shall have confidence that people in positions of public responsibility are acting for the benefit of the public. This Code of Conduct and Ethics (the "Code") is within the Town's home rule authority and a proper exercise of the Town Council's legislative authority, and supersedes any other applicable Colorado law, including without limitation Article XXIV of the Colorado Constitution.

B. *Applicability.* This Code applies to the Mayor, Town Council Members, and members of all Town boards, commissions and committees (each a "Public Servant").

1-7-2 – No private right of action.

Nothing in this Code creates a private right of action against the Town or against any Public Servant based upon noncompliance with its provisions. Authority to enforce compliance with this Code is vested exclusively in the Town.

1-7-3 – Definitions.

For purposes of this Chapter, the following terms shall have the following meanings:

Business: A corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, activity or entity.

Financial interest: Any interest equated with money or its equivalent, excluding:

1. The interest that a Public Servant or relative has as an employee of a business or, as a holder of an ownership interest in such business, in a decision of any public body, when the decision financially benefits or otherwise affects such business but entails no foreseeable, measurable financial benefit to the Public Servant or relative;

2. The interest that a Public Servant or relative has as a non-salaried officer or member of a nonprofit corporation or association or of an educational, religious, charitable, fraternal or civic organization in the holdings of such corporation, association or organization;

3. The interest that a Public Servant or relative has as a recipient of public services when such services are generally provided by the Town on the same terms and conditions to all similarly situated citizens, regardless of whether such recipient is a Public Servant or relative;

4. The interest that a Public Servant or relative has as a recipient of a commercially reasonable loan made in the ordinary course of business by a lawfully established financial or lending institution;

5. The interest that a Public Servant or relative has as a shareholder in a mutual or common investment fund in the holdings of such fund, unless the shareholder actively participates in the management of such fund;

6. The interest that a Public Servant or relative has as a policyholder in an insurance company, a depositor in a duly established savings association or bank, or a similar interest-holder, unless the discretionary act of the Public Servant, could immediately, definitely and measurably affect the value of such policy, deposit or similar interest;

7. The interest that a Public Servant or relative has as an owner of government-issued securities unless the discretionary act of such owner, as a Public Servant, could immediately, definitely and measurably affect the value of such securities; or

8. The interest that a Public Servant has in the compensation received from the Town for services provided to the Town as a Public Servant.

Gift: A payment, subscription, advance, favor, discount, promise of future employment, forbearance, deposit of money, goods, services, or anything of value given, unless consideration of equal or greater value is received in exchange.

Personal interest: Any interest, other than a financial interest, by reason of which a Public Servant, or a relative of such Public Servant, would, in the judgment of a reasonably prudent person, realize or experience some direct and substantial benefit or detriment different in kind from that experienced by the general public. Personal interest shall not include:

1. The interest that a Public Servant or relative has as a member of a board, commission, committee, or authority of another governmental entity, of a nonprofit corporation or association, or of an educational, religious, charitable, fraternal, or civic organization;

2. The interest that a Public Servant or relative has in the receipt of public services when such services are generally provided by the Town on the same terms and conditions to all similarly situated citizens; or

3. The interest that a Public Servant has in the compensation, benefits, or terms and conditions of their employment with the Town.

Relative: A spouse, domestic partner, parent, child, sibling, aunt, uncle, niece, nephew, grandparent, grandchild, great grandparent, great grandchild, first cousin, or any person residing in and sharing with the Public Servant the expenses of the household.

1-7-4 – Gifts.

A. *Gifts prohibited*. A Public Servant shall not accept any gift if:

1. The Public Servant is in a position to take direct official action with regard to the giver of the gift; or

2. The Town has a transactional, business, or regulatory relationship with the giver of the gift.

B. *Exceptions*. Provided that the gift could not be reasonably considered a bribe or a means of improper influence on a direct official action, none of the following shall be considered gifts:

1. Campaign contributions as permitted by law.

2. An unsolicited item or items of value less than the dollar amount established and adjusted in Article XXIX, Section 3(6) of the Colorado Constitution, per vendor or third-party per year. In valuing the unsolicited item or items:

a. The cost of the gift is the retail value of the item unless the receiver has knowledge that the giver paid more than the retail value, in which case the cost is the amount actually paid.

b. For a charity event, the cost of the event is the amount the event organizer reports to the Internal Revenue Service as the non-deductible portion of the event.

c. It is not permissible to pay part of the cost of a gift that is offered with a value exceeding the amount set forth in this subsection to reduce the value to less than the amount set forth in this subsection to accept the gift.

3. An unsolicited token or award of appreciation that is reasonable in value and purpose given the position and responsibility of the Public Servant, such as a plaque or professional award.

4. Items of perishable or nonpermanent value, including without limitation meals, lodging, travel expenses, or tickets to sporting, recreational, education, or cultural events provided that the value of the item is reasonable and would be customarily accepted when considering the Public Servant's position, responsibility, and role in the Town.

5. Tickets or entry fees to an event expressly advertised for the purpose of benefiting and advancing the purpose of a non-profit organization.

6. Unsolicited informational material, publications, or subscriptions related to the Public Servant's performance of duties within the scope of elected or appointed office or employment.

7. Admission to, and the cost of food or beverages consumed at, a reception, meal or meeting by an organization before whom the Public Servant appears in an official, representative capacity to speak or to answer questions as part of a scheduled program.

8. Reasonable expenses paid by a nonprofit organization or federal, state, or local government for attendance at a convention, fact-finding mission or trip, or other meeting if the Public Servant is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the state or local government.

9. A gift from an individual who is a relative or personal friend on a special occasion.

10. Compensation or benefits given in the normal course of employment, appointment, volunteer services, or business.

11. A scholarship, grant or other financial aid for education.

12. Awards or prizes given at competitions or drawings at events open to the public.

13. Discounts that are offered to the public generally or to a large segment of the public.

14. Any exemption granted or recognized under State or federal law.

15. Any other exception specified in an advisory opinion issued pursuant to Section 1-7-11.

C. *Reporting required.* Any gift exceeding twenty-five dollars ($25.00) in value shall be reported to the Town Clerk in writing within ten (10) days of receipt.

1-7-5 – Conflict of interest.

A. *Sales to the Town*. A Public Servant or relative of a Public Servant shall not have a financial interest in the sale to the Town of any real or personal property, equipment, material, supplies or services if:

1. Such Public Servant is a Town Council Member;

2. Such Public Servant exercises, directly or indirectly, any decision-making authority on behalf of the Town concerning such sale; or

3. In the case of services, such Public Servant exercises any supervisory authority over the services to be rendered.

B. *Purchases from the Town*. A Public Servant or relative shall not, directly or indirectly, purchase any real or personal property from the Town, except such property that is offered for sale at an established price, and not by bid or auction, on the same terms and conditions as members of the general public.

C. *Disclosure and recusal*. Any Public Servant who has, or whose relative has, a conflict of interest in any decision of any board, commission or committee of which they are a member, shall, upon discovery thereof, disclose such interest pursuant to Section 1-7-9.A, and shall recuse themselves pursuant to Section 1-7-9.B. However, nothing in this subsection shall preclude a Public Servant from appearing before a public body of the Town on an application of the Public Servant, as a private individual, for a permit, license or other approval as required by law in the same manner and under the same circumstances as any other person seeking such permit, license or other approval.

1-7-6 – Outside employment or business activity.

A Public Servant shall report to the Town Clerk in writing any existing or proposed outside employment or other outside business activity that may affect their responsibilities to the Town, within thirty (30) days of the start of such employment or interest.

1-7-7 – Additional restrictions.

A. *Criminal offenses.* It is a violation of this Code to be convicted of or enter a plea of guilty, *nolo contendere* or no contest to a crime that

reasonably demonstrates an unfitness for public service or intentional disregard for the public trust or public property. Such offenses include without limitation crimes against fellow Public Servants or their property, theft or vandalism of public property, offenses involving fraud, offenses relating to morals, and offenses involving governmental operations.

B. *Special consideration.* A Public Servant shall not request or grant to any person any special consideration, treatment, or advantage beyond that which would be made available to every other person in similar circumstances.

C. *Use of Town property.* A Public Servant shall not use or authorize the use of Town time, facilities, equipment or supplies for personal or private benefit.

D. *Confidential information.* A Public Servant shall not disclose any information that is not available to the public, which was acquired in the course of official duties, except in the performance of official duties or as required by law or court order.

E. *Prior employment.* A Public Servant shall not take any direct official action with respect to matters involving their former employer for a period of six (6) months from the date of termination of their prior employment; provided, however, that this Section shall not be construed to disqualify any individual from service with the Town as a Public Servant solely because of their prior employment.

F. *Town policies.* Public Servants shall be subject to the terms, provisions, requirements, and procedures of the following Town administrative policies and procedures, as amended:

1. Equal employment opportunity (EEO);
2. Harassment;
3. Anti-violence;
4. Open records and email;
5. Social media; and
6. Information technology and cybersecurity.

1-7-8 – Appearance of impropriety.

A. *General.* An appearance of impropriety is created when a Public Servant may take a direct official action that, although not constituting a conflict of interest, may create a reasonable perception that the Public Servant's ability to carry out their official duties with integrity, impartiality, and competency is impaired.

B. *Disclosure and recusal.* A Public Servant who determines that their actions may cause an appearance of impropriety should, but is not required to, disclose the appearance of impropriety as provided by Section 1-7-9 and, if deemed appropriate by the Public Servant, recuse themselves from participation as provided by Section 1-7-9.

C. *Violations.* A violation of this Section does not, on its own, constitute a violation of this Code, but compliance with this Section shall not constitute a defense for violation of another subsection or section of this Code.

1-7-9 – Disclosure and recusal.

A. *Disclosure.*

1. Mandatory disclosure of a conflict of interest shall be made when the conflict or appearance is first reasonably known to the Public Servant. Disclosure shall be made verbally during a public meeting or in writing in advance of the meeting, to all other members of the Town Council or affected committee, board or commission.

2. The disclosure shall identify the general nature of the interests involved, whether the matter will create or may potentially create an economic, pecuniary, or financial benefit or detriment for the Public Servant, and the approximate value of any potential benefit or detriment.

B. *Recusal.*

1. When recusal is required, the Public Servant shall:

a. Refrain from communicating with any other Public Servant regarding the matter and attempting to influence any other Public Servant's official action concerning the matter;

b. Refrain from voting upon or taking any official action concerning such matter; and

c. Physically leave any room or premises at which the matter is being considered.

2. A Town Council Member may participate and vote on a matter notwithstanding a conflict of interest if participation is necessary to obtain a quorum or otherwise enable the Town Council to act and if the Council Member complies with the voluntary disclosure procedures of C.R.S. § 24-18-110.

C. *Challenges.*

1. *Town Council Member*. Any person may challenge a Town Council Member's failure to declare a conflict of interest or failure to recuse themselves. A challenge shall be submitted to the Town Council in writing or made verbally during a public meeting, stating the facts in support of the challenge. The Town Council shall promptly inquire into the basis and facts

of the challenge and may request an opinion from the Municipal Judge regarding the challenge. The Town Council may, by majority vote of those present, render a determination whether a conflict of interest exists and whether recusal is required, which determination is final and not subject to appeal.

2. *Other Public Servant*. Any person may challenge any other Public Servant's failure to declare a conflict of interest or failure to recuse themselves. A challenge shall be submitted in writing to the affected commission, committee or board or made verbally during a public meeting of the affected commission, committee or board, and shall state the facts supporting the challenge. The affected commission, committee or board shall promptly inquire into the basis and facts of the challenge and render a determination as to whether a conflict of interest exists and whether recusal is required, which determination is final and not subject to appeal.

1-7-10 – Advisory opinions and waivers.

A. *Advisory opinion.* Any Public Servant may submit a written request to the Municipal Judge for an advisory opinion on whether any conduct by that person would constitute a violation of this Code. The Municipal Judge shall render an advisory opinion. The advisory opinion shall provide the Public Servant a specific defense to allegations of a violation of this Code.

B. *Waiver.* Any current, former, or prospective Public Servant may submit a written request for a waiver of any provision of this Code in advance of taking any action that is subject to the waiver request. The Town Council may grant a waiver if it finds, at a public meeting, that the waiver will serve the best interests of the Town.

1-7-11 – Enforcement.

A. *Complaint*. An ethics action is commenced by filing a complaint with the Town Clerk. Any person, either individually or on behalf of an organization, may file a complaint, but no complaint may be filed anonymously. The complaint shall set forth the following:

1. The name, address, telephone number and e-mail address of the individual submitting the complaint;

2. The name of the person(s) alleged to have committed a violation of this Code;

3. A full description of the facts which are alleged to support the complaint together with a specific citation to the section alleged to be violated;

4. The names of any witnesses who have knowledge of such facts, together with information sufficient to contact such witnesses; and

5. The signature of the person submitting the complaint with a verification stating the following: "The undersigned hereby certifies or affirms that the information contained within this complaint is true to the best of my knowledge, information, and belief formed after reasonable reflection. I have not filed this complaint for the purpose of harassment or to falsely disparage the individual(s) claimed to have committed violations of the Town of Erie Code of Conduct and Ethics."

B. *Delivery and Answer.* Within seven (7) days of the date of filing, the Town Clerk shall deliver a copy of the complaint to the respondent Public Servant. Within twenty-one (21) days of delivery, the respondent Public Servant may submit to the Town Clerk a written answer to the complaint.

C. *Initial review.* Within forty-five (45) days of the date of filing, the Town Council shall review the complaint at a public meeting. The Town Council shall determine:

1. That the complaint alleges facts that may be sufficient to constitute a claim for violation of this Code; or

2. That the complaint will be dismissed without further action because:

a. The alleged violation, even if true, would not constitute a violation of this Code;

b. The allegations of the complaint were previously asserted in another complaint and are already being considered or were resolved;

c. The allegations of the complaint involve actions or events that occurred more than one (1) year prior to the date of the filing of the complaint;

d. The complaint is, on its face, frivolous, groundless, or brought for purposes of harassment; or

e. The complaint should be referred to another agency with jurisdiction over the allegations of the complaint, such as law enforcement.

D. *Investigation*.

1. If the Town Council determines that the complaint should not be dismissed, the Town Council shall order an investigation and appoint an investigator. Within sixty (60) days of the Town Council's order, the investigator shall prepare a written report. The report shall be considered confidential work product as an inter-agency advisory or deliberative report assembled for the benefit of the Town Council which expresses an opinion or is communicated for the purpose of assisting the Town Council in reaching a decision within the scope of the Town Council's authority, and is

not subject to public disclosure. The investigator shall also prepare a summary of the report to be released to the public.

2. The investigator's written report shall contain the following:

a. Findings of fact;

b. A conclusion on whether each allegation in the complaint is a violation of this Code by clear and convincing evidence; and

c. A dismissal of the complaint, or a determination that the complaint should be sent to an administrative hearing.

E. *Administrative hearing.*

1. If the investigator's written report contains a recommendation that the complaint proceed to an administrative hearing, the Town Council shall order an administrative hearing and appoint a hearing officer to preside over the hearing. The Town Council shall provide the investigator's written report to the hearing officer. Not less than twenty-one (21) days prior to the date of the hearing, the Town Clerk shall provide to the respondent Public Servant and the complainant notice of the date, time, place, and purpose of the administrative hearing.

2. At the hearing, the burden of proof shall be on the complainant to prove a violation of this Code by clear and convincing evidence. The hearing officer shall administer oaths and decide all points of order, procedure and evidence. Whether and how the Colorado Rules of Evidence apply lies within the discretion of the hearing officer. An electronic record of the hearing shall be made.

3. Following the hearing, the hearing officer shall issue a written decision with findings of fact and a penalty, if warranted. The written decision of the hearing officer shall be delivered to the respondent Public Servant, the complainant and the Town Council.

F. *Available penalties.* The hearing officer may impose one or more of the following penalties:

1. Oral or written reprimand delivered to the individual;

2. Oral or written reprimand or censure announced or read publicly during a meeting of the Town Council; or

3. Except for Town Council Members, removal from the commission, committee or board.

G. *Appeal.* The Public Servant or complainant may appeal any decision of the hearing officer in accordance with C.R.C.P. 106(a)(4).

H. *Recusal.* A Town Council Member shall disqualify themselves from participating in any matter when they are the complainant or respondent.

I. *No ex parte communications*. No Public Servant shall engage in *ex parte* communications with the Town Council, appointed investigator or hearing officer on any matter pertaining to the complaint.

Section 3. The Town Council, Commission, Committee and Board Conduct and Ethics Policy attached hereto is hereby adopted.

Section 4. 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 Town Council 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 5. Safety. The Town Council finds that the adoption of this Ordinance is necessary for the protection of the public health, safety and welfare.

Section 6. Effective Date. This Ordinance shall take effect 10 days after publication following adoption.

Introduced, Read, Passed and Ordered Published this _____ day of _____, 2026.

_____
Andrew J. Moore, Mayor

Attest:

_____
Debbie Stamp, Town Clerk