

**TOWN OF ERIE
PLANNING COMMISSION MEETING
May 7, 2025**

SUBJECT: **Resolution P25-05**
A Resolution of the Planning Commission of the Town of Erie
Recommending that the Town Council Adopt an Ordinance
Amending Title 10 of the Erie Municipal Code Regarding
Accessory Dwelling Units, Assembly Uses, and Minimum Parking

PURPOSE: Unified Development Code amendment to provide clarity for
assembly uses, and to align with recent state legislation
regarding accessory dwelling units, and minimum parking
requirements

CODE REVIEW: Erie Municipal Code, Title 10

DEPARTMENT: Planning and Development

PRESENTER: Sarah Nurmela, Planning and Development Director
Chris LaRue, Principal Planner

STAFF RECOMMENDATION:

Staff recommend that the Planning Commission adopt the resolution recommending the Town Council adopt an ordinance amending Title 10 of the Erie Municipal Code regarding accessory dwelling units, assembly uses, and minimum parking.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Town staff have identified areas of the Erie Municipal Code within Title 10 that need amendment to provide clarity regarding assembly uses. Additionally, there is a need to align with recent state legislation. The proposed amendments are as follows:

Assembly Uses

The current code contains three types of assembly uses: General Assembly, Residential Assembly, and Religious Assembly.

General assembly. General assembly uses include facilities owned or operated by associations, corporations, or other persons for social, educational, or recreational purposes primarily for members and their guests. Accessory uses may include offices, meeting areas, food preparation areas, concessions, parking, and maintenance facilities. This use includes assembly of fraternal organizations (Elks, Lions Club, etc.)

Religious assembly: A facility used primarily for non-profit purposes to provide assembly and meeting areas for religious activities, including parking, caretaker's housing, buildings ancillary to a religious function, pastor's housing, and group living facilities such as convents.

Residential assembly: General assembly uses include facilities owned or operated by homeowner associations intended for use by the specific neighborhood or development for which it serves. Typical examples are clubhouses, indoor and outdoor gathering spaces, and common area rooms.

The Religious Land Use and Institutionalized Person Act (RLUIPA) prohibits zoning and landmarking laws that:

- treat churches or other religious assemblies or institutions on less than equal terms with nonreligious assemblies or institutions;
- discriminate against any assemblies or institutions on the basis of religion or religious denomination;
- totally exclude religious assemblies from a jurisdiction; or
- unreasonably limit religious assemblies, institutions, or structures within a jurisdiction.

The use table in current code treats Religious Assembly on less than equal terms in that it requires Special Review Use (SRU) in some districts where Residential Assembly is allowed by-right, see below.

TABLE 3-1: TABLE OF PERMITTED USES																					
P = Permitted Use by Right S = Special Review Use Blank Cell = Prohibited																					
USE	CATEGORY	RESIDENTIAL							COMMERCIAL			INDUSTRIAL			MIXED USE			OTHER			
		RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	I	HI	DT	NMU	CMU	AG/OS	AGH	AP	PLI
Religious Assembly	Religious Assembly	S	S	S	S	S	S	S	P	P	P	S	S	S	S	S	P	S	S	S	P
Assembly	General Assembly								S	S	S				S	S	S	S		S	S
	Residential Assembly (HOA)	P	P	P	P	P	P	P							P	P	P				

The proposed changes simplify definitions for assembly uses by removing General Assembly and Assembly Building, replacing Religious Assembly with Place of Worship and clarifying the definition of Community Center (public). The proposed changes result in equal treatment religious assembly.

State Legislation

In 2024, the state legislature introduced and passed laws that require the Town to make changes to the UDC. House Bill 24-1152 requires by June 30, 2025, municipalities allow Accessory Dwelling Units (ADUs) everywhere single family detached dwellings are allowed. House Bill 24-1304 requires by June 30, 2025, municipalities not enact or enforce laws requiring minimum parking spaces within one-quarter mile of transit stops for multifamily residential, adaptive reuse for residential, or adaptive reuse for mixed use that is at least 50% residential. The following subsections give background information on the legislation and details of the proposed ordinance changes.

Accessory Dwelling Units (ADUs)

HB 24-1152 requires municipalities by June 30, 2025, allow one ADU as an Accessory Use to a Single-unit Detached Dwelling in any area, lot, or parcel where the Single-unit Detached Dwellings are allowed. The ADU can be either internal to, attached to, or detached from the primary unit.

Single unit detached dwellings are allowed in all of Erie's residential zoning districts (Rural Residential, Estate Residential, Suburban Residential, Low Density Residential, Medium Density Residential, High Density Residential, Old Town Residential), two mixed use districts (Downtown, Neighborhood Mixed Use), and the Agricultural Holding district.

State law requires that review processes for ADUs be an administrative process that does not include public hearing. Approval or denial must be based on compliance with objective standards included in the code. The code may not include restrictive design or dimension standards. Additionally, minimum side setbacks cannot be larger than those for the single unit detached on the lot, and the minimum rear setback cannot be larger than what is required of other accessory structures, or five feet, whichever is greater.

These requirements apply to all lots that allow the construction of Single-Unit Detached Dwellings regardless of whether the lot or parcel is in a standard zone district, overlay zone district, or a Planned Unit Development (PUD), and regardless of whether restrictive declarations, bylaws, or rules of a Homeowners Association (HOA) prevent ADUs. Over 60% of Erie's developed areas are within PUDs or Planned Developments (PDs), many of which allow single unit detached dwellings. State law supersedes existing PUDs/PDs from restricting ADUs and requires that new PDs allow ADUs as accessory uses, subject to administrative review. HOAs may not restrict the creation of ADUs, and if their covenants contain prohibitions on ADUs the courts will not enforce. State law does allow for HOAs to enact what it calls 'reasonable restrictions', defined as:

A substantive condition or requirement that does not unreasonably increase the cost to construct, effectively prohibit the construction, or extinguish the ability to otherwise construct an ADU.

The Town does not enforce, nor is it a party to, HOA covenants and restrictions.

Proposed changes for ADUs

ADUs are currently allowed by right in all districts that allow single unit detached units, see table below. No changes are necessary to the accessory use table.

TABLE 3-2: TABLE OF ACCESSORY USES AND STRUCTURES																				
ACCESSORY USE/ STRUCTURE	P=Permitted Use By Right							S=Special Review Use			Blank=Not Permitted									
	RESIDENTIAL							COMMERCIAL			INDUSTRIAL			MIXED-USE			OTHER			
	RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	I	HI	DT	NM	CM	AG/ OS	AGH	AP	PLI
Accessory dwelling unit	P	P	P	P	P	P	P							P	P	P		P		

Section 10-3-3 outlines current standards for ADUs, some of which do not comply with state legislation. The current regulations that are out of compliance include:

- Square footage limitations
- Minimum lot size of 6,000 square feet
- Select design standards

The proposed standards eliminate the square footage cap, and require the structure be subordinate and smaller than the principal. The 6,000 square foot lot minimum is also removed. The proposed changes align side and rear setbacks with the state law, as well as the design standards.

Minimum Parking Requirements

HB 24-1304 prohibits local governments from enacting or enforcing Minimum Parking Requirements on multifamily housing developments within one-quarter of a mile of mapped transit areas. The prohibition applies to all new multifamily residential developments, regardless of whether it is a freestanding residential building or part of a mixed-use building or development that also contains some non-residential uses. In addition, the prohibition applies to Adaptive Reuse of an existing building for completely residential purposes, and to Adaptive Reuse of an existing building for a mix of uses in which at least 50% of the resulting use is residential. Of note, the law does not prohibit residential or mixed-use developers from including off-street parking, only municipalities from requiring parking as a part of zoning regulations.

The following municipalities and counties are subject to this state law.

Arvada	Erie	Lakeside	Thornton
Aurora	Evans	Lakewood	Westminster
Boulder	Federal Heights	Littleton	Wheat Ridge
Broomfield	Fort Collins	Lone Tree	Adams County
Centennial	Fountain	Longmont	Arapahoe County
Cherry Hills Village	Foxfield	Louisville	Boulder County
Colorado Springs	Garden City	Loveland	Douglas County
Columbine Valley	Glendale	Manitou Springs	El Paso County
Commerce City	Golden	Mountain View	Jefferson County
Denver	Greeley	Northglenn	Larimer County
Edgewater	Greenwood Village	Pueblo	Pueblo County
Englewood	Lafayette	Sheridan	Weld County
		Superior	

The Department of Local Affairs (DOLA) was tasked with mapping the transit areas in applicable areas. The following figures illustrate the two currently mapped areas within Erie.

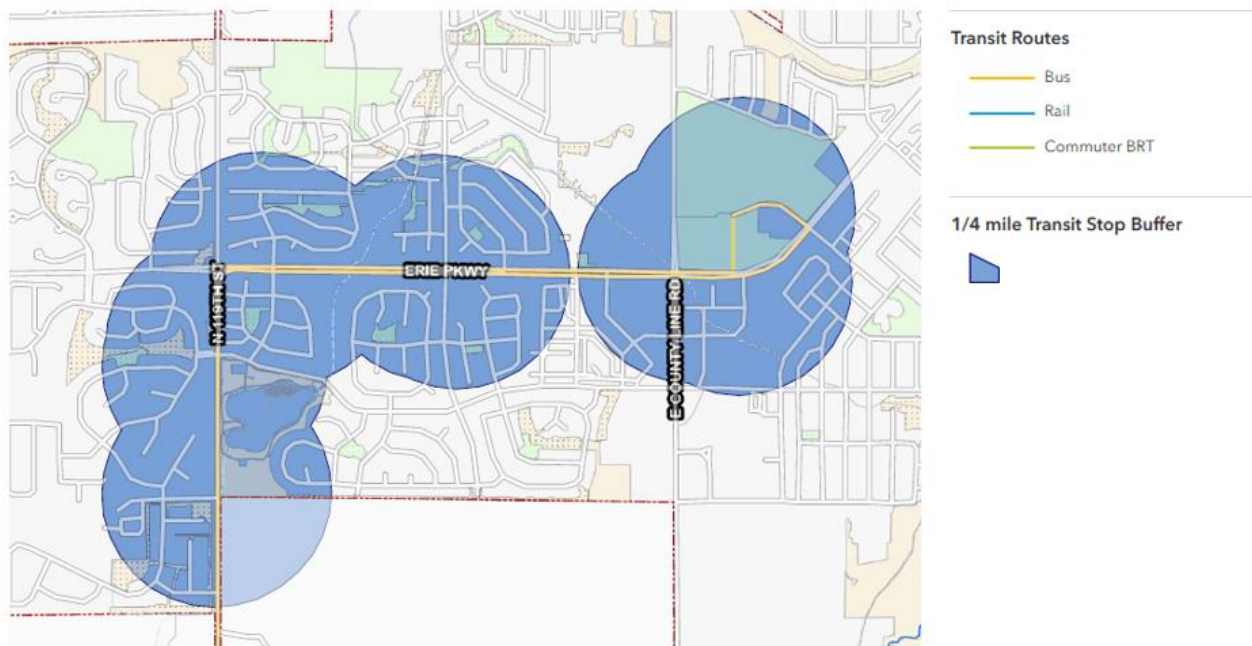


Figure 1: Erie Parkway

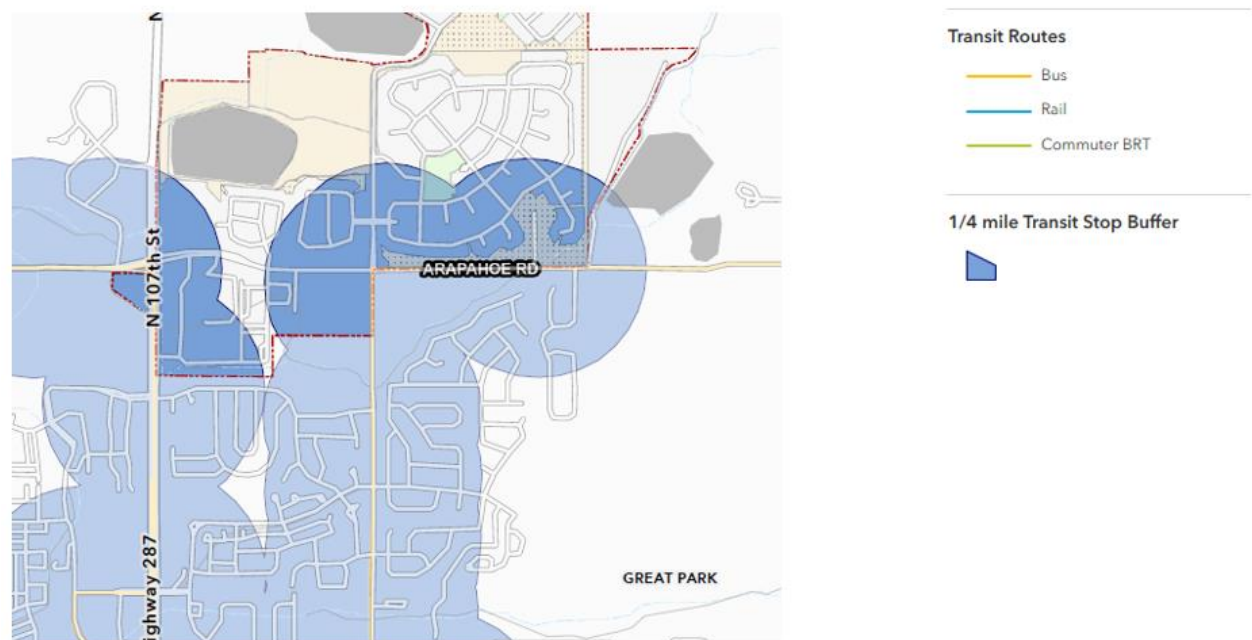


Figure 2: Arapahoe Road

Developers can still choose to provide parking. If they do the Town can regulate by:

- Require that those parking spaces include the same number of spaces for persons with disabilities that would be required under the Americans with Disabilities Act.
- Require that those spaces include the number and type of electric vehicle charging spaces required by the Colorado Model Electric Ready and Solar Ready Code developed pursuant to HB22-1362.
- Impose a Maximum Parking Requirement limiting the amount of off-street parking spaces voluntarily provided.
- Require that the developer charge for the use of those parking spaces (i.e., not make them available free of charge to residents, businesses, or patrons of the development).
- Require that the developer contribute to a parking enterprise, parking permitting system, or a shared parking plan.

Erie's code currently has a maximum of 125% of the required minimum. We do not currently have a parking permitting or enterprise system. The law further clarifies that enforcement of minimums for bicycle parking is allowed. As is compliance with parking requirements related to affordable housing funding.

Proposed changes for Minimum Parking

The proposed changes add the following definition of Adaptive reuse:

The conversion of an existing structure from the use for which it was constructed to a new use by maintaining elements of the structure and adapting such elements to a new use.

The changes also include a provision to Section 10-6-6 – Off street parking and loading stating that off-street parking requirements shall not apply to multi-family dwellings, mixed-use projects with at least 50% residential uses, and residential adaptive reuse projects located within one-quarter mile of a transit service area as established by Colorado Department of Local Affairs.

The Town Council public hearing for these amendments is scheduled for June 10, 2025.

Approval Criteria

Section 10-7-18(C)(9) of the Erie Municipal Code states the following approval criteria when considering amendments to the text of the UDC:

1. The proposed amendment will promote the public health, safety, and general welfare; and
2. The proposed amendment is generally consistent with the Town's Comprehensive Master Plan and the stated purposes of this UDC; and
3. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.

Staff finds these amendments are necessary because of changing conditions created by the State legislature, and to comply with RLUIPA and recommends that the Planning Commission adopt Resolution No. 25-05 recommending that the Town Council adopt an ordinance amending Title 10 of the Erie Municipal Code regarding accessory dwelling units, assembly uses, and Minimum Parking.

Attachments

1. Resolution P25-05
2. Draft Ordinance
3. Staff Report
4. Staff Presentation
5. HB24-1152
6. HB24-1304