

**TOWN OF ERIE
TOWN COUNCIL MEETING
June 10, 2025**

SUBJECT: **PUBLIC HEARING: Ordinance 018-2025**
An Ordinance of the Town Council of the Town of Erie
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
Kelly Driscoll, Planning Manager
Chris LaRue, Principal Planner

STAFF RECOMMENDATION:

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

PLANNING COMMISSION: MAY 7, 2025

The Planning Commission held a meeting on this request on May 7, 2025. The Commission heard the staff presentation, asked questions, and then voted unanimously (6-0) to recommend Town Council adopt the ordinance to amend the Unified Development Code (UDC) as proposed. The Planning Commission's consideration of the code update was not a public hearing, so public comment was not required or provided.

Specific comments from Planning Commission included:

- In relation to accessory dwelling units (ADUs), Planning Commission asked to what extent Homeowner Associations (HOAs) would be able to provide design input. An ADU will require a building permit, which are reviewed against Town code. However, Town staff do not confirm ADU review/approval by an HOA; it is the applicant's responsibility to obtain HOA approval in their respective neighborhoods. It should be noted that HB24 -1152 does apply to HOAs. Any restrictive covenant created by an HOA must conform with HB24-

1152; namely, the covenant may only apply reasonable restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction, or extinguish the ability to otherwise construct an ADU. C.R.S. 38-33.3-106.5(4).

- In relation to the parking language update, Planning Commissioner Sawusch questioned whether RTD's transit service in Erie meets the parameters laid out in HB-1304 regarding transit service frequency. The law applies to, "A PUBLIC BUS ROUTE THAT HAS A PLANNED OR SCHEDULED FREQUENCY OF EVERY THIRTY MINUTES OR MORE FREQUENT FOR FOUR HOURS OR MORE ON WEEKDAYS, EXCLUDING SEASONAL SERVICE". RTD's JUMP route schedule on Erie Parkway is only every 60 minutes for 4 hours in the morning and 5 hours in the evening, not every 30 minutes. Although the proposed code update does not include a map of transit areas in Erie, Town Transportation & Mobility staff have contacted DOLA and asked them to confirm DOLA's mapping in relation to HB-1304 accurately reflects those areas subject to HB-1304. The Ordinance is worded so that it applies to areas, "located within a quarter (1/4) mile of a transit service area as established by the Colorado Department of Local Affairs." This language will accommodate any changes or updates made by DOLA.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Town staff identified areas of the Erie Municipal Code Title 10 - Unified Development Code (UDC) that need to be updated for consistency with existing federal law and new State legislation. These code updates include an amendment to provide clarity regarding assembly uses and alignment with recent State legislation regarding ADUs and parking requirements for certain types of residential developments near transit.

The proposed amendments include:

Assembly Uses

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

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 a Special Review Use (SRU) approval in some districts where Residential Assembly is allowed by-right, see below or view the code [here](#).

		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 the terms '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 of 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 that by June 30, 2025, municipalities allow ADUs everywhere single family detached dwellings are allowed. House Bill 24-1304 requires that 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, to 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 a 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 an 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 Dwellings, 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 code update eliminates the square footage cap, and requires the structure be subordinate and smaller than the principal. The 6,000 square-foot lot minimum is also removed. Additionally, the proposed changes align side and rear setbacks and design standards with the State law.

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.

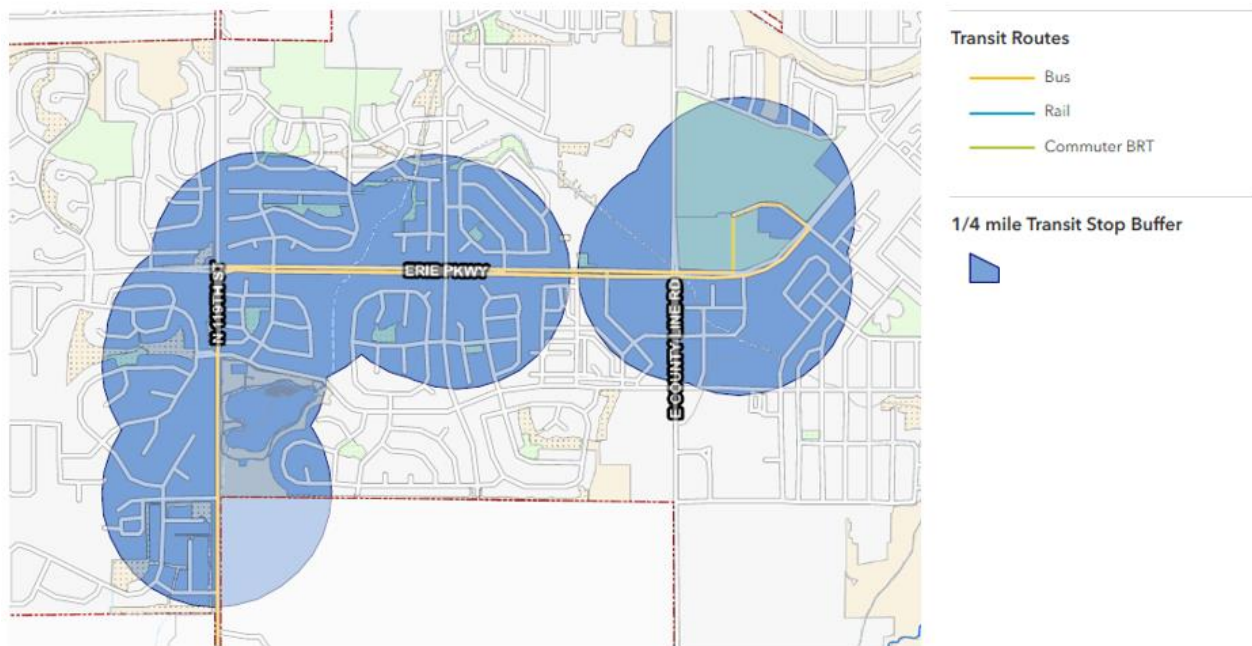


Figure 1: Erie Parkway

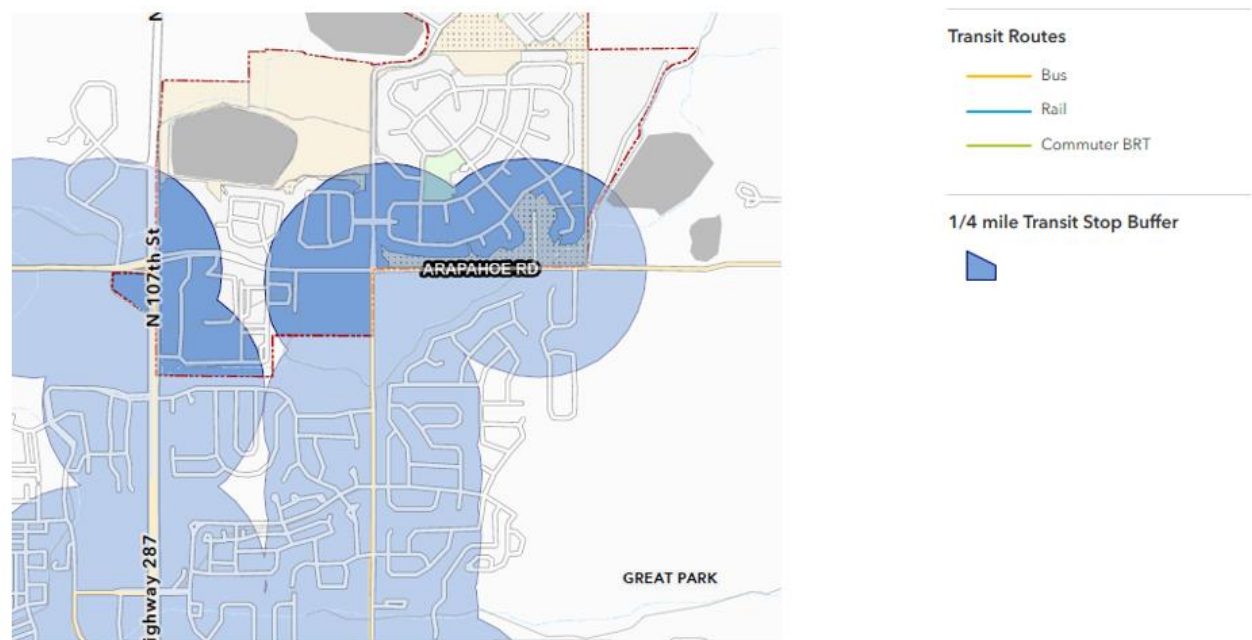


Figure 2: Arapahoe Road

As noted above, Town staff are working with DOLA to determine if RTD's transit service in Erie meets the parameters laid out in HB-1304 regarding transit service frequency. The Ordinance is worded so that it applies to areas, "located within a quarter (1/4) mile of a transit service area as established by the Colorado Department of Local Affairs." This language will accommodate any changes or updates made by DOLA.

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

- Requiring those parking spaces to include the same number of spaces for persons with disabilities that would be required under the Americans with Disabilities Act.
- Requiring 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.
- Imposing a Maximum Parking Requirement limiting the amount of off-street parking spaces voluntarily provided.
- Requiring the developer to 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).
- Requiring the developer to 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. The Town does 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.

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 Town Council adopt an ordinance amending Title 10 of the Erie Municipal Code regarding accessory dwelling units, assembly uses, and Minimum Parking.

Attachments

1. Ordinance No. 018-2025
2. PC Resolution P25-05
3. Staff Report
4. Staff Presentation
5. HB24-1152
6. HB24-1304