

ORDINANCE NO. 150-05-118

AN ORDINANCE OF THE CITY OF LAUDERHILL, FLORIDA AMENDING THE LAND DEVELOPMENT REGULATIONS AND PERTAINING TO EDUCATION; INCORPORATING THE WHEREAS CLAUSES; AMENDING ARTICLE III., ZONING DISTRICTS, PART 5.0., SPECIAL REGULATIONS FOR SPECIFIC LAND USE CLASSIFICATIONS BY CREATING A NEW SECTION 5.48., EDUCATION, PRIMARY AND SECONDARY, CHARTER AND PRIVATE SCHOOLS AND ADDING SUBSECTIONS ON APPLICATION FILING REQUIREMENTS, SITE REQUIREMENTS, PHYSICAL ENVIRONMENT REQUIREMENTS, OTHER REQUIREMENTS, EXEMPTION, AND EXISTING SCHOOLS; AMENDING SCHEDULE A., LAND USE CLASSIFICATIONS, BY AMENDING THE CLASSIFICATION EDUCATION, PRIMARY AND SECONDARY BY ADDING PUBLIC SCHOOLS, AND BY ADDING A DEFINITION FOR EDUCATION, PRIMARY AND SECONDARY, CHARTER AND PRIVATE SCHOOLS; AMENDING SCHEDULE B., ALLOWABLE USES, SECTION 1., USES ALLOWED IN RESIDENTIAL DISTRICTS, TO ALLOW AS A SPECIAL EXCEPTION USE EDUCATION, PRIMARY AND SECONDARY, CHARTER AND PRIVATE SCHOOLS IN THE RESIDENTIAL SINGLE FAMILY ANNEXED AT FIVE DWELLING UNITS PER GROSS ACRE (RS-5A) ZONING DISTRICT AND MAKING EDITORIAL CHANGES; AMENDING SCHEDULE B., SECTION 2., USES ALLOWED IN NONRESIDENTIAL DISTRICTS, TO ALLOW AS A SPECIAL EXCEPTION USE EDUCATION, PRIMARY AND SECONDARY, CHARTER AND PRIVATE SCHOOLS IN THE COMMERCIAL OFFICE (CO), GENERAL COMMERCIAL (CG), AND COMMUNITY FACILITY (CF) ZONING DISTRICTS, AND MAKING EDITORIAL CHANGES; AMENDING ARTICLE III., ZONING DISTRICTS, PART 3.0., BASE OR UNDERLYING ZONING DISTRICTS, SECTION 3.1., RESIDENTIAL ZONING DISTRICTS, SUBSECTION 3.1.13., RESIDENTIAL SINGLE FAMILY ANNEXED AT FIVE DWELLING UNITS PER GROSS ACRE (RS-5A) ZONING DISTRICT, PARAGRAPH D., SPECIAL EXCEPTION USES AND STRUCTURES, BY ADDING EDUCATION, PRIMARY AND SECONDARY, CHARTER AND PRIVATE SCHOOLS AND MAKING EDITORIAL CHANGES; PROVIDING FOR FINDINGS AND CONCLUSIONS; PROVIDING FOR

CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY MAYOR RICHARD J. KAPLAN)

WHEREAS, the City Commission adopted its Comprehensive Plan as is required by the Comprehensive Planning and Land Development Regulation Act (Act), which Comprehensive Plan was subsequently determined to be in-compliance with said Act; and

WHEREAS, Section 163.3202, Florida Statutes, requires each municipality to adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan; and

WHEREAS, on June 11th, 1990, the City Commission implemented its adopted Comprehensive Plan as is required by Section 163.3202, Florida Statutes, by adopting the City of Lauderhill Land Development Regulations; and

WHEREAS, Paragraph 163.3202(2)(b), Florida Statutes (F.S.), requires the land development regulations contain specific and detailed provisions necessary to regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open spaces; and

WHEREAS, the Land Development Regulations (LDR) have a land use category for public and private primary and secondary schools; and

WHEREAS, state law imposes different requirements on public schools than on private and charter primary and secondary schools; and

WHEREAS, Section 1002.33(19), F.S., provides that, with the exception of conversion charter schools, charter schools are not required to comply, but may choose to comply, with the State Requirements for Educational Facilities (SREF) of the Florida Building Code adopted pursuant to Section 1013.37, F.S.; and

WHEREAS, the SREF includes standards to insure the health and safety of students, such as facility inspection services, design standards and inspection standards; and

WHEREAS, from a land use perspective, private and charter primary and secondary schools should meet many of the same land use requirements as public primary and secondary schools; and

WEHEREAS, the LDR do not provide any guidance on regulation of private and charter primary and secondary schools and state regulations are too lenient; and

WHEREAS, the City Commission finds the LDR's lack of guidance on private and charter primary and secondary schools has negatively impacted the public health, safety and general welfare due to such problems as the timely processing and review of development orders and other approvals, the failure to consider on-site and off-site health, safety and other improvements, and operational characteristics and issues; and

WHEREAS, on January 12th, 2015, the City Commission adopted Ordinance No. 140-12-162, which Ordinance established a six (6) month moratorium on private and charter primary and secondary schools; and

WHEREAS, on March 16th, 2015, the City Commission held a workshop to allow public discussion and debate pertaining to a draft version of this Ordinance amending the Land Development Regulations and addressing private and charter primary and secondary schools; and

WHEREAS, if a court of competent jurisdiction determines that some of these provisions are not land use regulations but are licensing issues, this ordinance shall not be invalidated if such licensing issues would be valid if they had been adopted through a separate ordinance amending those portions of the Code of Ordinances pertaining to licensing; and

WHEREAS, at their duly noticed meeting and public hearing of April 28th, 2015 the City's Planning and Zoning Board, sitting as the Local Planning Agency (LPA) entered the Development Review Report on the Ordinance and all other relevant and substantial competent evidence into the record, and forwarded the record to the City Commission with the recommendation that the Ordinance be adopted; and

WHEREAS, at their duly noticed meeting and public hearing of May 11th, 2015, the City Commission considered the record, adopted findings and conclusions, and approved the Ordinance on first reading; and

WHEREAS, at their subsequently duly noticed meeting and public hearing of June 8th, 2015, the City Commission on second reading adopted the Ordinance incorporating revisions to the Land Development Regulations.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA:

SECTION 1. **Whereas clauses incorporated.** The findings and conclusions set forth in the above whereas clauses are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2. **Section 5.48. created.** Land Development Regulations Article III, Zoning Districts, Part 5.0., Special Regulations for Specific Land Use Classifications, Section 5.48, is created as set forth below:

Sec. 5.48. Education, Primary and secondary, Charter and private schools.

5.48.1. Application filing requirements. In addition to the filing requirements for special exception use applications, the following additional information shall be provided for any proposed charter or private primary and secondary school.

A. Timing. In order to allow sufficient time to secure required development order, building permit, and business license approval, a special exception use application and fee must be filed with the Planning and Zoning Office at least nine months before the start of the school year.

B. Charter/accreditation. If a charter school, a copy of the School Board approved charter application and the charter agreement between the sponsor and the applicant shall be filed along with the application. If a private school, either a copy of approval from the applicable accrediting agency or a letter of acknowledgement that an application for accreditation has been filed.

- C. Organizational structure. An organizational chart and explanation showing the hierarchical arrangement of lines of authority, communications, right and duties of the school organization.
- D. Affidavit. A list of the governing board members/Board of Directors, Officers, Administrators and all individuals with a financial interest in the school that will interact with students, along with affidavits from each stating whether or not that person was convicted of a crime within the last ten years.
- E. Financial responsibility. Evidence of financial responsibility, including at a minimum:
1. A one-year pro-forma statement showing revenues, expenditures, and net profit or loss;
 2. A bank account demonstrating sufficient financial resources to operate the facility for one year;
 3. A \$250,000 surety bond or other type of credit, and
 4. The name, education, experience and qualifications of the person charged with financial management.
- F. Prior history. Evidence of any prior history of financial interest, ownership, management, or operation of a charter or private school, including its financial and educational success or failure.
- G. Prior jobs. Evidence of past job and education experience showing that the Governing Board/Board of Directors, Officers, Administrators, its employees and any consultants (e.g., internal auditor, management company) are qualified to operate the school.

- H. Use. Evidence of legal use of the property in question by applicant through a deed, contract or option to purchase or lease.
- I. Emergency management plan. A conceptual site plan showing where the students would congregate in the event of a fire. In addition, if a disaster should render the building uninhabitable, a plan showing how students would be accommodated elsewhere until the building is repaired and made habitable.
- J. Ingress/Egress. A conceptual site plan showing the ingress and egress of pedestrians and all vehicles from the school site, and safety features necessary to protect the students on and within 1,000 lineal feet of the school site boundaries and a narrative explaining how student safety and off-premises private property rights will be assured at least 30 minutes before and after the school hours of operation.
- K. Other. Any other documentation or requirements that the Planning and Zoning Office deems relevant to the operation of such use or safety of the students or both.

5.48.2. Site requirements. The following minimum standards shall apply

- A. Separation standard. Public, charter, and private primary and secondary schools shall be separated between and among each other by a minimum distance of 1,000 lineal feet between as measured by the nearest point on any plots to be occupied by such land uses.
- B. Lot size. The plot shall have a minimum size of one acre.

- C. Building requirements. If located on property with a single building, the school must occupy the entire freestanding building. If located within a shopping center or office building, the school may not occupy a ground floor; however, existing schools occupying a ground floor shall be considered a legal, non-conforming use subject to the nonconforming use provisions in Schedule H.
- D. Barrier. If the site abuts a canal or other water body, a minimum eight feet high fence shall be installed along the property line abutting the water body in order to protect the students.
- E. Site plan requirements. A Certificate of Use shall not be issued until a site plan or site plan modification is approved consistent with these Land Development Regulations and consistent with the State Requirements for Educational Facilities (SREF) 2014 (or latest edition), as stated in the Florida Administrative Code. The Planning and Zoning Official may grant relief from these requirements under Article IV., Part 3.0., Sections 3.3 and 3.4 or based upon good cause. In addition, if the application is for a charter school, a copy of the site plan or site plan modification shall be provided to the School Board of Broward County, Florida staff for conformance with the applicable SREF.
- F. Off-site improvements. If through the site plan or site plan modification process the City Engineer, Broward County or state transportation related agencies deem that off-site improvements are required, such as traffic signalization, signage, pedestrian and bicycle improvements, transit amenities, school crossings and zones, and turning lanes, such improvements and amenities must be constructed and approved before a Certificate of Use can be issued. At a minimum, the following

factors shall be considered in determining the extent of the off-site improvements:

1. Whether the roadways provide adequate access and areas for safe bicycling and walking to the site; and
2. Whether median cuts, left and right turning lanes and storage lanes are available to facilitate access of buses, teachers, parents, students, and services; and
3. Whether school zone flasher installations are available in order to facilitate safe pedestrian access to the site; and
4. Whether the school site is connected to existing or planned residential developments by sidewalks, walkways, and crosswalks in order to facilitate safe pedestrian movement.

5.48.3. Physical environment requirements.

A. Indoor space. All schools must have a minimum amount of usable indoor floor space for each student. Usable indoor floor space refers to space that is available for classrooms and shall be measured at floor level from interior walls. It does not include hallways and stairways, restroom facilities, kitchens, and offices. A floor plan shall be provided showing the following minimums per occupant:

1. Classrooms: 44 net square feet for primary schools and 32 net square feet for secondary schools;
2. Dining area (excluding kitchen and storage area): 40 net square feet and 25 percent school capacity, but a phasing plan based on

10 day enrollment may be provided until capacity is reached;

3. Administrative offices: 100 net square feet;

Additional space shall be provided for all other functions based upon the Florida Building Code or Fire Safety Code.

B. Outdoor space. A minimum 45 square feet of outdoor space shall be provided per student. Such space preferably shall be located on-site.

C. Drop-off/pick-up area. A student drop-off and pick-up area shall be depicted on the site plan, which area shall be consistent with the "Safe Routes to School Guide, Student Drop-off and Pick-up", which guide was developed by the Pedestrian and Bicycle Information Center.

5.48.4. Other requirements.

A. General liability. The owner or director of any school shall annually provide proof that said school has obtained and will continue in effect a comprehensive general liability insurance policy in the minimum amount of one million dollars (\$1,000,000.00) for bodily injury and property damage and shall name the City of Lauderhill as an additional insured. Proof of such insurance policy shall be provided to the Finance Department in conjunction with the filing of the local business tax receipt application. Said owner or director shall also provide the Finance Department thirty (30) days prior notice of the expiration or cancellation of said insurance policy.

B. Transportation. If transportation services are provided, the following requirements shall apply:

1. The transportation services requirements specified in the Florida Administrative Code as may be amended from time-to-time.
 2. Annually provide proof that said use has obtained and will continue in effect a comprehensive general liability insurance policy in the minimum amount of one million dollars (\$1,000,000.00) for bodily injury and property damage. Proof of such insurance policy shall be provided to the Finance Department in conjunction with the filing of the local business tax receipt application. Said owner or director shall also provide the Finance Department thirty (30) days prior notice of the expiration or cancellation of said insurance policy.
- C. School crossing guards. Charter and private schools are required to and shall provide at their own expense school crossing guards.

5.48.5. Exemption. A private primary or secondary school with 25 students or less shall be exempt from:

- A. Paragraphs 5.48.1.B. and E;
- B. Paragraph 5.48.2.A. and C;
- C. Paragraph 5.48.3.A and B,

and shall be allowed as a permitted use in the General Commercial (CG) zoning district.

5.48.6. Existing schools. Existing schools that do not meet the above-described requirements shall comply with the requirements as follows:

- A. Starting on Fiscal Year 2017-2018, which begins October 1, 2017, existing schools shall have three months to submit a site plan modification

application in order to ensure compliance with the emergency management, ingress/egress, and site plan requirements. A site plan modification development order must be secured by September 30, 2018; otherwise, a business license tax receipt will not be issued.

- B. Starting on Fiscal Year 2018-2019, which begins October 1, 2018, existing schools shall comply with the insurance requirements.

SECTION 3. Schedule A amended. Land Development Regulations Schedule A., Land Use Classifications, is amended to add a new classification and definition as set forth below.

EDUCATION, PRIMARY AND SECONDARY, PUBLIC SCHOOLS: An educational use where instruction at the elementary, junior, or senior high school levels is provided in the branches of learning and study required to be taught in the public schools of the State of Florida. This land use does not include adult or child care, or pre-school education but allows remedial education as an accessory use.

EDUCATION, PRIMARY AND SECONDARY, CHARTER AND PRIVATE SCHOOLS: An educational use where instruction at the elementary, junior or senior high school levels is provided in branches of learning and study approved by, in the case of a charter school, the School Board of Broward County, Florida, or in the case of a private school, by the State and applicable accrediting agency. This land use does not include adult or child care, or pre-school education but allows remedial education as an accessory use.

SECTION 4. Schedule B.1 amended. Land Development Regulations Schedule B., Allowable Use, Section 1., Uses allowed in Residential Districts, is amended as set forth below

Land Use Category	RS-4	RS-4A	RS-5	RS-5A	RM-5
Education, primary and secondary	SE	SE	SE	SE	
• <u>Primary and secondary, public schools</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>	
• <u>Primary and secondary, charter and private schools</u> ¹				<u>SE</u>	
Essential services and utilities	P	P	P	P	P

SECTION 5. Schedule B.2 amended. Land Development Regulations Schedule B., Allowable Use, Section 2., Uses allowed in Nonresidential Districts, is amended as set forth below.

Land Use Category	CO	CN	CG	CC	CW	CE	IL	PO	PL	PR	CR	S-1	CF	UT
Education ¹														
• College and university				SE		SE							SE	
• Instructional	SE		P	P	SE	P ²			A ²	A ²			SE	
• Pre-school	SE	P		SE	SE								SE	
• Primary and secondary, <u>Public schools</u>	SE			SE	SE		SE						SE	
• <u>Primary and secondary, charter & private schools</u> ¹	<u>SE</u>		<u>SE</u>										<u>SE</u>	
• Remedial		P											P	
• Training	SE		P	P	SE	SE ²	SE		A ²	A ²			P	
Essential utilities and services	P	P	P	P	P	P	P	P	P	P	A	P	P	P

SECTION 6. Paragraph 3.1.13.D amended. Land Development Regulations Article III., Zoning Districts, Part 3.0., Base or Underlying zoning districts, Section 3.1., Residential zoning districts, Subsection 3.1.13., Residential Single Family Annexed at Five dwelling units per gross acre (RS-5A) zoning district, Paragraph D., Special exception uses and structures, is amended as set forth below.

- C. Special exception uses and structures allowed. The following types of uses and structures are allowed as special exception uses within the RS-5A zoning district:
1. Construction trailer;
 2. Primary and secondary school, Public; and
 3. Primary and secondary, charter and private; and
 4. Temporary real estate sales office consistent with Article VII., Section 8.

SECTION 7. Findings and Conclusions. The Development Review Report prepared by the Planning and Zoning Department is attached hereto, is incorporated herein, and are hereby adopted as the findings of

fact and conclusions of law to support the Ordinance amending Land Development Regulations.

SECTION 8 Conflict. All ordinances or parts of ordinances, all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed as to the extent of such conflict.

SECTION 9 Codification. The provisions of this Ordinance shall become and be made a part of the City of Lauderdale, Florida Land Development Regulations; sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and the word "ordinance" may be changed to "article," "part," "section," or other appropriate word.

SECTION 10. Effective Date. This Ordinance shall take effect immediately upon its adoption.

DATE this _____ day of _____, 2015.

PASSED on first reading this _____ day of _____, 2015.

PASSED AND ADOPTED on second reading this _____ day of _____, 2015.

PRESIDING OFFICER

ATTEST:

CITY CLERK

FIRST READING

SECOND READING

MOTION
SECOND

M. BATES
H. BENSON
H. BERGER
K. THURSTON
R. KAPLAN

Prepared: 01-12-15
Revised: 04-09-15