

Planning Commission Staff Report

June 29, 2017



Case No:	17AMEND1001
Project Name:	Private Institutional Uses in Single-Family Zoning Districts LDC Text Amendment
Location:	Multiple properties in Louisville Metro
Owner:	n/a
Applicant:	Louisville Metro
Representative:	Louisville Metro
Jurisdiction:	Louisville Metro
Council District:	All Council Districts
Case Manager:	Brian Mabry, AICP, Planning Supervisor

REQUEST

Amend the LDC related to private institutional uses in single-family zoning districts

SUMMARY

On June 8, 2017, the Louisville Metro Council passed Ordinance No. 96, Series, 2017, sponsored by Councilmember Brandon Coan that (1) places a 90-day moratorium on the acceptance of any new application involving a new private institutional use in a single-family zoning district and (2) directs the Planning Commission, through its staff, to research potential changes to the Louisville Metro Land Development Code (LDC) related to private institutional uses in such districts. See **Attachment 1**. According to the Ordinance, the Planning Commission must hold a public hearing and make a recommendation to Metro Council on potential amendments to the LDC within 60 days of the effective date of the resolution, June 15, 2017. Therefore, the deadline to make a recommendation and to transmit to Metro Council is August 7, 2017.

A reason behind the Ordinance, as shown in its WHEREAS statements, is that in a single-family zoned neighborhood, a public institutional use, a type of community facility, must often go through the Community Facilities Review process (as set forth in section 100.324 of Kentucky Revised Statutes). In this type of review, a proposed public institutional use must be reviewed by staff in light of the Comprehensive Plan (but not necessarily with the standards in the LDC) and often goes before the Planning Commission or one of its committees for a public meeting. Private institutional uses, where permitted by right, do not have to go through such a process and can be established without public input on the specific proposal. The attached Ordinance specifically states concern over siting, buffering, noise, traffic, and environmental and visual impacts associated with such nonresidential uses in residential districts. The attached recommendation (**Attachment 3**) provides two options for addressing these concerns within the LDC.

The LDC defines Institutional Uses as follows:

Public, semipublic, and private elementary schools, middle schools, high schools, civic buildings, community buildings and uses including substations, governmental buildings, churches, museums, art galleries, fire houses, post offices, police stations, reservoirs, libraries, parks, essential services, hospitals, and similar uses, any of which may have additional requirements to use set forth within. For the purposes of this code all institutional uses shall be considered as non-residential uses.

Single-family zoning districts in the LDC include the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N districts.

On June 9, the Planning Committee met to discuss the proposed changes. Councilmember Brandon Coan, sponsor of the attached Ordinance, was present and gave some background about why the Ordinance was passed. He believes requiring a Conditional Use Permit (CUP) for private institutional uses in single-family zoning districts is reasonable and allows some discretionary review of these uses in order to discern their impacts on neighborhoods. Committee members tended to agree. The concerns of the Committee were:

- What level of review is needed to help satisfy the demand for a public review? and
- What areas of Louisville Metro, if any, need a higher level of review?

The Committee asked staff to explore options for creating CUP requirements. They finally determined that the request was ready for a public hearing before the Planning Commission on June 29, 2017.

RESEARCH

Louisville Metro LDC Standards

The table below shows which single-family zoning districts allow institutional uses. For the most part, the LDC makes little distinction between private and public institutional uses in terms of which zoning districts allow them. If an institutional use is not listed below, then it is not one that is permitted in a single-family zoning district. (Note: Since the requested amendment was made in relation to Louisville Metro’s LDC, staff did not carry out a detailed review of the uses within the LDC’s of the cities within Jefferson County with independent zoning authority. Staff will carry out such a review if requested by the Planning Commission or legislative body).

Use	Permitted (P), Permitted with Standards (PS), Conditional Use Permit (CUP)	Single-Family Zoning Districts
Colleges, schools, and institutions of learning (except training schools)	PS ¹	R-R
	P	R-E, R-1, R-2, R-3, R-4, R-5, U-N
Community service facility ²	CUP ³	R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N
Convents and monasteries	PS ¹	R-R
	P	R-E, R-1, R-2, R-3, R-4, R-5, U-N
Hospitals and medical clinics	CUP ⁴	R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N
Libraries, museums, historical buildings and grounds, arboretums, aquariums, and art galleries	P	R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N
Parks, playgrounds, and community centers	PS ¹	R-R
	P	R-E, R-1, R-2, R-3, R-4, R-5, U-N
Private non-profit club	PS ¹	R-R
	CUP ⁵	R-E, R-1, R-2, R-3, R-4, R-5, U-N
Religious buildings	PS ¹	R-R
	P	R-E, R-1, R-2, R-3, R-4, R-5, U-N
Sewage disposal plants	CUP ⁶	R-E, R-1, R-2, R-3, R-4, R-5, U-N
Zoos	CUP ⁷	R-E, R-1, R-2, R-3, R-4, R-5, U-N

¹ Provided that all structures and their accessory structures or uses observe a 150’ front, street side, side and rear yard.

² Defined as “Uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community. They provide the service on-site and have employees at the site on a regular basis. The service is ongoing, not just for special events. These facilities may provide accessory uses such as counseling, education, or training. These facilities are not considered schools (e.g. training schools, business schools, etc.) and do not include a residential occupancy component.”

³ Community service facilities have standards related to setback (30’), parking, signs, and residential and character of exterior.

⁴ Hospitals and medical clinics have standards related to signs, setback (30’), indoor waiting areas, parking, and proximity to a collector or arterial street.

⁵ Private non-profit clubs have standards related to setback (30'), pools, fencing for recreation areas, and signs.

⁶ Sewage disposal plants have standards related to fencing, nuisances, and maintenance plans.

⁷ Zoos have standards related to fencing, signs, and landscape buffer areas (100' between all property lines and structures)

Some institutional uses will always be private and never public, such as religious buildings, convents and monasteries due to the separation of church and state. Amendments to an LDC related to religious uses must be done with caution considering the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA). According to the U.S. Department of Justice, RLUIPA prohibits zoning regulations that substantially burden religious assemblies or institutions absent the least restrictive means of furthering a compelling governmental interest. In other words, unless a government can show that it has a good, rational reason for imposing a regulation on a religious use, and that the restriction is the least burdensome way for the government to further that interest, then it should not regulate places of worship any differently from other similar, secular uses. For example, a church's worship facility should not have to obtain a Conditional Use Permit in a zoning district where a comparable use, such as a private non-profit club, does not have to obtain one. For these reasons, Staff does not recommend that religious buildings, including convents and monasteries, be required to obtain a Conditional Use Permit in single-family zoning districts.

The Louisville Metro LDC currently allows religious buildings, convents, and monasteries by right or permitted with standards in all zoning districts and do not appear to be substantially burdened by land use regulations that are more stringent than comparable uses. In addition, the term "religious building" in the current LDC replaced the more specific use "church" in 2013 and is in line with RLUIPA requirements that land use regulations cannot exclude or discriminate among religions. The proposed amendments in **Attachment 3** attempt to regulate religious buildings even handedly compared to other private institutional uses.

According to the LDC, the following non-religious institutional uses are permitted by right in single-family zoning districts and could be subject to additional restrictions as part of this potential amendment:

- Colleges, schools, and institutions of learning (except training schools)
- Libraries, museums, historical buildings and grounds, arboretums, aquariums, and art galleries
- Parks, playgrounds, and community centers

Louisville Metro's Comprehensive Plan, Cornerstone 2020, also provides some guidance on where institutional uses (most types of which would be considered community facilities) should be located and designed. In the plan, community facilities are defined as facilities, whether publicly or privately owned, used for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county or municipal buildings, recreation centers including parks, and cemeteries.

In general, it is consistent with the provisions of Cornerstone 2020 to allow non-religious, institutional uses in single-family zoning districts provided that such uses are located, designed and constructed to be compatible with nearby land uses and to minimize impacts to residential areas (see Guideline 3, Compatibility, and Guideline 15, Community Facilities).

The LDC does not contain standards specific to private institutional uses in single-family zoning districts, but it does have general design standards for any newly established use if a new building is proposed or if minor or significant expansions in building or parking area are proposed. These general design standards include, but are not limited to, setbacks, lighting, landscaping and parking. In and of itself, a change in use from, for example, residential to a private school, would only trigger compliance with landscaping, screening, and tree canopy provisions, but likely not with any other general design standards if no building or parking expansion occurred. However, such a change in use would almost always necessitate an expansion of parking, which, in turn, would bring many of these general design standards into play.

Other Communities

The American Planning Association (APA) has researched other communities to see how they regulate institutional uses in single-family zoning districts. Their report is attached as **Attachment 2**. In summary, the research showed a mix of approaches for the cities of Austin, Cincinnati, Indianapolis, Kansas City, Memphis, Nashville, New Orleans, Raleigh, Tucson, and Tulsa. Only Cincinnati required Conditional Use Permits for all relatively common institutional uses in single-family districts. Austin is the only city surveyed that requires a Conditional Use Permit specifically for private schools in the single-family zoning district. Tucson requires such permits for private “cultural uses” which include museums, libraries, botanical gardens, zoos, nature reserves, and wildlife refuges.

Cincinnati appears to have no specific Conditional Use Permit standards for institutional uses in single-family zoning districts. It appears that proposals for such uses would only need to go through the public hearing process and be held to general criteria.

The standards for private schools in Austin relate to:

- The site being located on a street that has a paved width of at least 40 feet
- Associated dwelling units complying with residential requirements

The standards for private cultural uses in Tucson relate to:

- Setbacks (100')
- Screening from adjacent residential uses or zoning districts, storage of fertilizer, manure, or other odorous material
- Public access being required from a major street or from a local street that is not an internal residential neighborhood street
- Noise impacts
- Hours of operation
- Shielding of outdoor lighting from adjacent residential uses
- Trip generation and traffic impacts.

Lot Sizes

Staff’s recommended Option 2 text amendment includes a threshold based on lot size. Therefore, staff has researched average lot sizes of residential properties in the Traditional (Downtown, Traditional Neighborhood, Traditional Marketplace Corridor, Town Center, Traditional Workplace, and Village) and Suburban (Neighborhood, Suburban Marketplace Corridor, Regional Center, Suburban Workplace, Campus, and Village Outlying) form districts.

Staff removed public right-of-way, government-owned properties, and properties with a land use of Open Space (such as parks) per Property Valuation Administrator assessment from the calculations. In addition, all parcels less than 200 square feet were removed from the calculations. Finally, parcels that are extremely long and skinny, yet still over 200 square feet in area, were also excluded from the calculations.

Form District Grouping	Average Lot Size (sq. ft.)	Median Lot Size (sq. ft.)
Traditional	7,136	5,281
Suburban	32,342	10,269

PROPOSED AMENDMENT OPTIONS

Attachment 3 contains LDC text amendment options recommended by the Planning & Design Service’s staff. The Planning Commission must make a recommendation to Metro Council and the other legislative bodies with zoning authority to approve, approve with modifications, or deny the amendments.

INTERESTED PARTY COMMENTS

None received as of the publication of this Staff Report.

APPLICABLE PLANS AND POLICIES

These proposed amendments to the LDC text are consistent with the following objectives and policies of Cornerstone 2020.

Traditional Neighborhood, Neighborhood and Village Form Districts, Goal C2 Community Design, Objective C2.1: Utilize performance standards for community design elements of neighborhoods and villages to ensure that development and redevelopment is compatible with the organization and pattern of the district.

Traditional Neighborhood, Neighborhood and Village Form Districts, Goal C4 Site Design, Objective C4.1: Utilize performance standards for site design elements of neighborhoods and villages to ensure that development and redevelopment is compatible with the organization and pattern of the neighborhood, traditional neighborhood, or village form district.

Traditional Neighborhood, Neighborhood and Village Form Districts, Goal C4 Site Design, Objective C4.6 Buffers and Compatibility: Ensure compatibility of new developments with the existing blockface and with abutting uses by high quality design and compatibility of building types. When these measures afford insufficient protection for abutting uses, provide buffering, screening or other techniques to mitigate any nuisance which may reasonably be foreseen from the proposed development.

Traditional and Workplace Form Districts, Goal G4 Site Design, Objective G4.3 Buffers and Compatibility: Utilize buffer, landscape, lighting and noise and similar performance standards and guidelines to ensure compatibility between uses and buildings within workplaces.

Guideline 3. Compatibility: Ensure that land uses and transportation facilities are located, designed and constructed to be compatible with nearby land uses and to minimize impacts to residential areas, schools and other sensitive areas in the community.

Guideline 3, Compatibility, Policy A6, Traffic: Mitigate adverse impacts of traffic from proposed development on nearby existing communities.

Guideline 3, Compatibility, Policy A7, Noise: Mitigate adverse impacts of noise from proposed development on existing communities.

Guideline 13. Landscape Character: Protect and enhance landscape character.

Guideline 13, Landscape Character, Policy A6, Buffers for Incompatible Uses: Provide standards for screening and buffering to mitigate adjacent incompatible uses.

Guideline 15. Community Facilities: Review community facility location and design to ensure compatibility with existing development.

Guideline 15, Community Facilities, Policy A5, Compatibility: Review new community facilities or major expansion of existing facilities for compatibility and appropriateness of location.

Guideline 15, Community Facilities, Policy A6, Impact on Residential Areas: Design community facilities that will be located within residential areas so that they will not detract from the

residential character of the immediate neighborhood. Mitigation may be required to address issues such as signs, noise, lighting, traffic, parking, and odors.

Guideline 15, Community Facilities, Policy A14, Schools: Schools should be located and designed with safe access for pedestrians, bicyclists, motorist and their passengers, with adequate buffering from nuisances detrimental to its operation, and to the extent possible, with active and passive recreational areas.

NOTIFICATION

Notification of the Planning Commission public hearing has been conducted in accordance with KRS 100 requirements.

STAFF CONCLUSIONS

The proposed amendment options, as set forth in **Attachment 3**, would require all private institutional uses in single-family zoning districts to obtain a CUP under Option 1. Under Option 2, the proposed amendments would require all private institutional uses in single-family zoning districts on larger lots to obtain a CUP and would allow all such uses on smaller lots to be permitted with standards, without a public hearing required.

Staff makes these LDC text amendment recommendations in light of the following:

WHEREAS, the Planning Commission finds that the proposed amendments to the LDC related to private institutional uses in single-family zoning districts comply with the applicable guidelines and policies of Cornerstone 2020.

WHEREAS, the Planning Commission further finds that the proposed amendments to the LDC related to private institutional uses in single-family zoning districts comply with Objectives C2.1, C4.1, C4.6 and G4.3 of Cornerstone 2020. In addition, the proposed amendments to the LDC related to private institutional uses in single-family zoning districts comply with Guideline 3, Compatibility, Policy A6, Traffic; Guideline 3, Compatibility, Policy A7, Noise; and Guideline 13, Landscape Character, Policy A6, Buffers for Incompatible Uses. The proposed amendments contain setback, parking, noise, buffering, traffic, and operating hours provisions in order to promote compatibility with the surroundings and mitigate nuisances.

WHEREAS, the Planning Commission further finds that the proposed amendments to the LDC related to private institutional uses in single-family zoning districts comply with Guideline 15, Community Facilities, Policy A5, Compatibility; Guideline 15, Community Facilities, Policy A6, Impact on Residential Areas; and Guideline 15, Community Facilities, Policy A14, Schools of Cornerstone 2020. The listed policies encourage community facilities to be compatible with their surroundings and the proposed LDC text amendments impose compatibility requirements on the privately owned and/or operated counterparts of community facilities, private institutional uses.

The Planning Commission must make a recommendation to Metro Council and the other legislative bodies with zoning authority to approve, approve with modifications, or deny the amendments.

ATTACHMENTS

1. Metro Council Ordinance Related to Private Institutional Uses in Single-Family Zoning Districts
2. Private Institutional Uses Text Amendment: Response from APA
3. LDC Text Amendment Options

Attachment 1: Metro Council Resolution Related to Private Institutional Uses in Single-Family Zoning Districts

ORDINANCE NO. 096, SERIES 2017

AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE ISSUANCE OF PERMITS FOR PRIVATE INSTITUTIONAL USES IN SINGLE-FAMILY RESIDENTIAL ZONING DISTRICTS THROUGHOUT METRO LOUISVILLE PENDING THE STUDY, REVIEW AND RECOMMENDATION BY THE PLANNING COMMISSION OF LAND USE REGULATIONS TO ADDRESS SUCH FACILITIES (AS AMENDED).

SPONSORED BY: COUNCIL MEMBER BRANDON COAN

WHEREAS, the Legislative Council of the Louisville/Jefferson County Metro Government (“Council”) hereby acknowledges that educational diversity is of value and various institutions such as libraries, museums, etc. are valuable community assets but want to ensure that the public has some input into their location;

WHEREAS, the Council finds that institutional facilities in single-family residential zoning districts, if not properly sited and buffered, have the potential to significantly and negatively affect nearby properties and neighborhoods in terms of visual, noise, traffic, environmental, and other impacts;

WHEREAS, the Louisville Metro Land Development Code classifies institutional facilities as a permitted use in single-family residential zoning districts; however, there are no regulations in the Land Development Code pertaining specifically to the appropriateness of such facilities in residential neighborhoods;

WHEREAS, it is an integral principle in Cornerstone 2020 to protect neighborhoods;

WHEREAS, the Council finds that a comprehensive study of the zoning regulations is necessary to determine whether it should adopt regulations providing for discretionary review and public input regarding such facilities to ensure that any negative visual, noise, traffic, environmental and other impacts related to the operation

of facilities are properly mitigated, and that the potential locations of said facilities within Metro Louisville are appropriate and compatible with surrounding land uses;

WHEREAS, public institutional facilities require a community facilities review process pursuant to KRS 100.324(4) although similar private institutional uses do not require any such review and are not subject to any government control or oversight;

WHEREAS, for the purposes of this ordinance, "private institutional uses" include colleges, schools and institutions of learning; convents and monasteries; country clubs; libraries, museums, historical buildings and grounds, arboretums, aquariums, and art galleries; parks, playgrounds, and community centers; and religious buildings;

WHEREAS, it is anticipated that such a study will take approximately six months to initiate and complete; and

WHEREAS, during the pendency of such study, the Council desires to preserve the status quo by preventing the construction or establishment of private institutional facilities in single-family residential zones.

NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: There is hereby imposed a moratorium on the acceptance by Louisville Metro Planning & Design Services, Louisville Metro Codes & Regulations, Louisville Metro Planning Commission, and Louisville Metro Board of Zoning Adjustment of any new application involving any new private institutional uses in single-family residential zones.

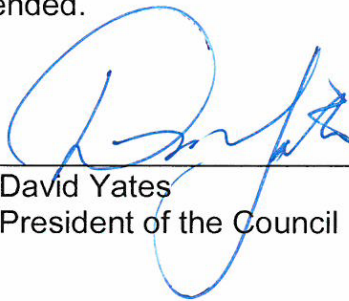
SECTION II: The moratorium set forth in this Ordinance shall also preclude the issuance by Louisville Metro Codes and Regulations of permits for the construction or establishment of new private institutional facilities.

SECTION III: The Metro Council hereby requests that the Planning Commission, through its staff in the Department of Louisville Metro Planning and Design Services, review the current sufficiency of zoning regulations related to private institutional uses in the Land Development Code as well as existing land use regulations from other jurisdictions that address private institutional facilities and how those jurisdictions address the unique characteristics of such facilities to provide public input and ensure that any negative visual, noise, traffic, environmental and other impacts related to the operation of such facilities are properly mitigated; draft, if necessary, and propose to the Planning Commission amendments to the Land Development Code requiring appropriate and compatible locations and development standards of private institutional facilities as they relate to single-family residential uses within Metro Louisville through the conditional use process; and that the Planning Commission hold a public hearing and, within ~~one hundred fiftysixty~~ (15060) days from the effective date of this Ordinance, forward its recommendations to the Council regarding potential revisions to the Land Development Code.

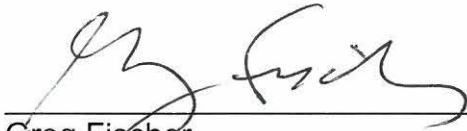
SECTION IV: This Ordinance shall take effect upon passage and approval and shall remain in effect for a period of ~~one hundred eighty~~ (18090) calendar days after its effective date unless repealed or extended.



H. Stephen Ott
Metro Council Clerk



David Yates
President of the Council



Greg Fischer
Mayor

6/15/17
Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: 

O-155-17 – Amended in Committee on 5-30-17(sh)

**LOUISVILLE METRO COUNCIL
READ AND PASSED**
June 8, 2017

Attachment 2: Private Institutional Uses Text Amendment: Response from APA

Research by the American Planning Association (APA) found relatively little consistency from place to place in regard to whether or not new private institutional uses can locate in these areas without obtaining a Conditional Use Permit.

APA took a look at the cities in the table below based on comparability to Louisville, diverse land-use contexts (a mix of urban, suburban, and even rural character areas) and relatively recently overhauled zoning codes. APA focused mainly on the following common institutional uses in older residential areas:

- Schools
- Churches
- Libraries
- Police and fire stations

Of the cities checked, only Cincinnati required Conditional Use Permits for all relatively common institutional uses in single-family districts. However, all of the other cities did permit with special standards some institutional uses to help mitigate potential site-specific compatibility issues without requiring a Conditional Use Permit. Austin is the only city surveyed that requires a Conditional Use Permit specifically for private schools in the single-family zoning district. Tucson requires such permits for private “cultural uses” which include museums, libraries, botanical gardens, zoos, nature reserves, and wildlife refuges.

Locality	State	Single-Family Districts	Institutional Uses Permitted or Permitted With Special Standards in Single-Family Zoning	Institutional Uses Permitted with CUP in Single-Family Zoning	Code Citations
Louisville	KY	R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N	colleges, schools, and institutions of learning (except training schools); convents and monasteries; libraries, museums, historical buildings and grounds, arboretums, aquariums, and art galleries, not for profit; parks, playgrounds, and community centers; religious buildings	community service facility; hospitals and medical clinics; private non-profit clubs; sewage disposal plants; zoos	Appendix 2A
Austin	TX	SF-1, SF-2, SF-3, SF-4A, SF-4B, SF-5, SF-6	public primary educational facilities; public secondary educational facilities; religious assembly	colleges and universities; cultural services; private primary educational facilities; private secondary educational facilities; safety services	§25-2-491 §25-2-831 et. seq.
Cincinnati	OH	SF-20, SF-10	N/A	religious assembly; public or private school	§1403-05
		SF-6	N/A	cultural institutions; religious assembly; public or private school	
		SF-4, SF-2	N/A	public safety facilities; cultural institutions; religious assembly; public or private school	
Indianapolis	IN	DS, D-1, D-2, D-3, D-4, D-5, D-5II	N/A	religious uses	Table 743-1 §743-III-04

Locality	State	Single-Family Districts	Institutional Uses Permitted or Permitted With Special Standards in Single-Family Zoning	Institutional Uses Permitted with CUP in Single-Family Zoning	Code Citations
Louisville	KY	R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N	colleges, schools, and institutions of learning (except training schools); convents and monasteries; libraries, museums, historical buildings and grounds, arboretums, aquariums, and art galleries, not for profit; parks, playgrounds, and community centers; religious buildings	community service facility; hospitals and medical clinics; private non-profit clubs; sewage disposal plants; zoos	Appendix 2A
Kansas City	MO	R-80	college, university, library, museum, cultural exhibit; religious assembly; fire station; police station; school	N/A	§88-110-03
		R-10, R-7.5, R-6	college / university, religious assembly, fire station, police station, school	N/A	§88-365
Memphis	TN	R-E, R-15, R-10, R-8, R-6, R-3	police / fire / EMS substation; public or private school (K-12); place of worship	neighborhood arts center (or similar); library / museum; seminary	§2.5.2 §2.6.2
Nashville	TN	RS80, RS40, RS30, RS20, RS15, RS10, RS7.5, RS7.5-A, RS5, RS5-A, RS3.75, RS3.75-A	community education	cultural center; religious institution; safety services	§17.08.030 §17.16.040
New Orleans	LA	HU-RS, HU-RD1, HU-RD2, S-RS, S-RD	convent and monastery; place of worship	community center; cultural facility; primary educational facility; secondary educational facility; public works and safety facilities	§11.2 §13.2 §20.3.R §20.3.Z
Raleigh	NC	R-1, R-2, R-4, R-6, R-10	museum / library; places of worship; police / fire / EMS station; public or private school (K-12)	N/A	§6.1.4 §6.3.1
Tucson	AZ	RX-1, RX-2	government owned and operated cultural uses; elementary and secondary educational uses; religious uses	N/A	§4.8.3
		R-1	government owned and operated cultural uses; elementary and secondary educational uses; religious uses; protective service	privately owned and operated cultural uses (museums, libraries, botanical gardens, zoos, nature reserves, and wildlife refuges)	§4.9.3

Locality	State	Single-Family Districts	Institutional Uses Permitted or Permitted With Special Standards in Single-Family Zoning	Institutional Uses Permitted with CUP in Single-Family Zoning	Code Citations
Louisville	KY	R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N	colleges, schools, and institutions of learning (except training schools); convents and monasteries; libraries, museums, historical buildings and grounds, arboretums, aquariums, and art galleries, not for profit; parks, playgrounds, and community centers; religious buildings	community service facility; hospitals and medical clinics; private non-profit clubs; sewage disposal plants; zoos	Appendix 2A
Tulsa	OK	RE, RS-1, RS-2, RS-3, RS-4, RS-5	schools established on or before 1/1/1998	college or university, library or cultural exhibit; safety service; schools established after 1/1/1998	Table 5-2 §40.070 §40.200 §40.320 §40.350

Plain text = existing LDC wording ~~stricken text~~ = LDC wording proposed to be removed
underlined text = LDC wording proposed to be added

Attachment 3: LDC Text Amendment Options

Option 1: Conditional Use Permit Required for All Private Institutional Uses in Single-Family Zoning Districts

Chapter 1 Part 2 Definitions

* * * * *

Institutional Use – Publicly owned and/or operated, ~~semipublic~~, and private elementary schools, middle schools, high schools, civic buildings, community buildings and uses including substations, governmental buildings, ~~churches~~, museums, art galleries, fire houses, post offices, police stations, reservoirs, libraries, parks, essential services, hospitals, and similar uses, any of which may have additional requirements to use set forth within. For the purposes of this code all institutional uses shall be considered as non-residential uses.

Institutional Use, Private – An institutional use that is not publically owned and/or operated.

Institutional Use, Publicly Owned and/or Operated – An institutional use that is either located on publicly owned land, or operated by a public entity, or both.

* * * * *

Chapter 2 Part 2 Residential Zoning Districts

2.2.1 R-R Rural Residential District

* * * * *

A. Permitted Uses:

1. General

* * * * *

Publicly owned and/or operated libraries, Libraries, museums, historical buildings and grounds, arboretums, aquariums, and art galleries

Note to Reviewers: Using the term “publicly owned and/or operated” allows an institutional use located on publicly owned property but that is privately operated (such as the California Neighborhood Center) to still be considered a public use, and therefore be permitted by right.

* * * * *

2. The following uses are permitted provided that all structures and their accessory structures or uses observe a one hundred and fifty feet (150) front, street side, side and rear yard:

* * * * *

Publicly owned and/or operated colleges, Colleges, schools, and institutions of learning (except training schools)

* * * * *

Publicly owned and/or operated parks, Parks and playgrounds, and community centers

~~Private non-profit clubs or camps of a recreation nature (other than outdoor gun clubs)~~

* * * * *

2.2.2 R-E Residential Estate District

* * * * *

A. Permitted Uses:

1. General

* * * * *

Publicly owned and/or operated colleges, Colleges, schools, and institutions of learning (except training schools)

Plain text = existing LDC wording ~~stricken text~~ = LDC wording proposed to be removed
underlined text = LDC wording proposed to be added

* * * * *

Publicly owned and/or operated libraries, Libraries, museums, historical buildings and grounds, arboretums, aquariums, and art galleries
Publicly owned and/or operated parks, Parks, playgrounds, and community centers

2.2.3 R-1 Residential Single Family District

* * * * *

A. Permitted Uses:
* * * * *

Publicly owned and/or operated colleges, Colleges, schools and institutions of learning (except training schools)

* * * * *

Publicly owned and/or operated libraries, Libraries, museums, historical buildings and grounds, arboretums, aquariums, and art galleries
Publicly owned and/or operated parks, Parks, playgrounds, and community centers

Note to Reviewers: R-2 through R-5 are not shown because in terms of permitted uses, they are the same as R-1.

2.2.8 U-N Urban Neighborhood District

* * * * *

A. Permitted Uses:
* * * * *

Publicly owned and/or operated colleges, Colleges, schools, and institutions of learning (except training schools)

* * * * *

Publicly owned and/or operated libraries, Libraries, museums, historical buildings and grounds, arboretums, aquariums, and art galleries
Publicly owned and/or operated parks, Parks, playgrounds, and community centers

Chapter 4 Part 2 Conditional Uses

4.2.1 Intent and Applicability

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Section	Conditional Use
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<u>4.2.65</u>	<u>Private Institutional Use in a Single-Family Zoning District</u>

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4.2.65 Private Institutional Use in a Single-Family Zoning District
Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

Note to Reviewers: "uses specifically regulated elsewhere in this Section" refers to specific private institutional uses that have their own CUP listing in Chapter 4, Part 2, such as private non-profit clubs and hospitals.

A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or

Plain text = existing LDC wording ~~stricken text~~ = LDC wording proposed to be removed
underlined text = LDC wording proposed to be added

residential zoning district. In the R-R zoning district, all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line.

Note to Reviewers: The first sentence in A. above is a common CUP standard in Chapter 4 of the LDC. These proposed standards only apply in single-family zoning districts but they wouldn't apply to a side of a subject property that is next to non-residentially zoned and used property. The second sentence is a reworking of an existing standard for Colleges, schools, and institutions of learning (except training schools); Convents and monasteries; Parks, playgrounds, and community centers; Private non-profit clubs; and Religious buildings in R-R.

B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated.

Note to Reviewers: B. above says that the CUP use may need to provide a traffic study or other documentation to demonstrate how increased traffic will be handled in the area. Under the base requirements already in the LDC, a traffic study may be required if 25 or more parking spaces are proposed or if there is a proposed nonresidential footprint expansion of 3,000 square feet or greater.

C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use.

Note to Reviewers: The first sentence in C. above is an existing CUP standard for Community Service Facilities. It requires parking to stay out of the front yard, except for on driveways. The second sentence says that the Planning staff may determine the amount of parking required based on resources such as the ITE Trip Generation Manual.

D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).

Note to Reviewers: D. above is a commonly used CUP standard in the LDC for various uses.

E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties.

Note to Reviewers: E. above allows the BOZA (but does not require) to set hours of operation if it is in the interest of the neighborhood.

Note to Reviewers: Basic review criteria that apply to all Conditional Use Permits are:

- 1. The purpose and intent and all other requirements of this code.*
- 2. Whether the proposal is consistent with the applicable policies of the Comprehensive Plan.*
- 3. The compatibility of the proposal with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc.*

Plain text = existing LDC wording ~~stricken text~~ = LDC wording proposed to be removed
underlined text = LDC wording proposed to be added

4. *Whether necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. will be adequate to serve the proposed use.*

5. *Any other matter that the Board may deem appropriate and relevant to the specific proposal.*

Where the Board finds that the conditions or circumstances relating to a particular application warrant more requirements in addition to those listed in connection with the particular use applied for, the Board may attach additional conditions

In terms of required Landscape Buffer Areas, in the current LDC, all CUP properties are treated as if they were zoned C-1. This equates to a 15 to 35-foot wide buffer with 3 large to medium trees per 100 linear feet and an 8-foot screen when adjacent to single-family zoning.

All private schools and religious buildings are currently treated as if they were zoned OR. This equates to a 10 to 20-foot wide buffer with 3 large to medium trees per 100 linear feet and a 6-foot screen when adjacent to single-family zoning.

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Option 2: Conditional Use Permit Required or Permitted with Standards Based on Lot Size

Chapter 1 Part 2 Definitions

* * * * *

Institutional Use – Publicly owned and/or operated, ~~semipublic~~, and private elementary schools, middle schools, high schools, civic buildings, community buildings and uses including substations, governmental buildings, ~~churches~~ religious buildings, museums, art galleries, fire houses, post offices, police stations, reservoirs, libraries, parks, essential services, hospitals, and similar uses, any of which may have additional requirements to use set forth within. For the purposes of this code all institutional uses shall be considered as non-residential uses.

Institutional Use, Private – An institutional use that is not publically owned and/or operated.

Institutional Use, Publicly Owned and/or Operated – An institutional use that is either located on publicly owned land, or operated by a public entity, or both.

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Chapter 2 Part 2 Residential Zoning Districts

2.2.1 R-R Rural Residential District

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A. Permitted Uses:

1. General

* * * * *

Publicly owned and/or operated libraries, Libraries, museums, historical buildings and grounds, arboretums, aquariums, and art galleries

* * * * *

2. The following uses are permitted provided that all structures and their accessory structures or uses observe a one hundred and fifty feet (150) front, street side, side and rear yard:

* * * * *

Publicly owned and/or operated colleges, Colleges, schools, and institutions of learning (except training schools)

* * * * *

Publicly owned and/or operated parks, Parks and playgrounds, and community centers, **public** ~~Private non-profit clubs or camps of a recreation nature (other than outdoor gun clubs)~~

* * * * *

2.2.2 R-E Residential Estate District

* * * * *

A. Permitted Uses:

* * * * *

Publicly owned and/or operated colleges, Colleges, schools, and institutions of learning (except training schools)

* * * * *

Publicly owned and/or operated libraries, Libraries, museums, historical buildings and grounds, arboretums, aquariums, and art galleries

Publicly owned and/or operated parks, Parks, playgrounds, and community centers

* * * * *

Plain text = existing LDC wording ~~stricken text~~ = LDC wording proposed to be removed
underlined text = LDC wording proposed to be added

2.2.3 R-1 Residential Single Family District

* * * * *

A. Permitted Uses:

* * * * *

Publicly owned and/or operated colleges, Colleges, schools and institutions of learning (except training schools)

* * * * *

Publicly owned and/or operated libraries, Libraries, museums, historical buildings and grounds, arboretums, aquariums, and art galleries

Publicly owned and/or operated parks, Parks, playgrounds, and community centers

* * * * *

2.2.8 U-N Urban Neighborhood District

* * * * *

A. Permitted Uses:

* * * * *

Publicly owned and/or operated colleges, Colleges, schools, and institutions of learning (except training schools)

* * * * *

Publicly owned and/or operated libraries, Libraries, museums, historical buildings and grounds, arboretums, aquariums, and art galleries

Publicly owned and/or operated parks, Parks, playgrounds, and community centers

* * * * *

Chapter 4 Part 2 Conditional Uses

4.2.1 Intent and Applicability

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Section	Conditional Use
* * * * *	* * * * *
<u>4.2.65</u>	<u>Private Institutional Use in a Single-Family Zoning District</u>

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4.2.65 Private Institutional Use in a Single-Family Zoning District

Except for such uses specifically regulated elsewhere in this LDC, private institutional uses on parcels that are 7,000 square feet in area or greater in the Traditional form districts or 32,000 square feet in area or greater in the Suburban form districts, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

Note to Reviewers: Private institutional uses that are on parcels larger than the average size in the Traditional and Suburban form district require a Conditional Use Permit.

A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to a residential use or zoning district. In the R-R zoning district, all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line.

B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated.

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underlined text = LDC wording proposed to be added

C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use.

D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).

E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties.

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Chapter 4 Part 3 Permitted Uses With Special Standards

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4.3.24 Private Institutional Use in a Single-Family Zoning District

Private institutional uses on parcels that are 6,999 square feet in area or less in the Traditional form districts or 31,999 square feet in area or less in the Suburban form districts are permitted in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, or U-N zoning district by the Planning Director with special standards set forth in this section

Note to Reviewers: Private institutional uses that are on parcels smaller than the average size in the Traditional and Suburban form districts can be established subject to the standards below, but do not need a Conditional Use Permit. However, standards in this Section are not eligible for a waiver or variance.

A. Prior to formally filing a development review application for a private institutional use, a letter shall be sent from the developer/owner stating the intent to establish or expand upon such use and announcing a public meeting held by the developer/owner to discuss the proposed project. The required recipients and deadlines established in Section 11.5A.3 shall apply this neighborhood meeting requirement.

Note to Reviewers: A. above requires that the applicant hold a neighborhood meeting in order to better understand any concerns nearby residents may have. B. through D. below largely are the same as the Conditional Use Permit standards in Option 1. The traffic requirement has been removed.

B. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 20 feet from any property line adjacent to a residential use or zoning district. In the R-R zoning district, all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line.

Note to Reviewers: In the first sentence in B. above a 20' setback is required, rather than 30 in order to allow more usable area on a smaller lot.

C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the

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standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use.

D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).

E. Landscape buffer areas shall be provided on site as required under Section 10.2.4.B.

Note to Reviewers: E. above treats the project as if it were a CUP in terms of buffering requirements. This equates to a 15 to 35-foot wide buffer with 3 large to medium trees per 100 linear feet and an 8-foot screen.