

Planning Committee

June 9, 2017



Case No:	17AMEND1001
Project Name:	Private Institutional Uses in Single-Family Zoning Districts LDC Text Amendment
Case Manager:	Brian Mabry, AICP, Planning Supervisor

REQUEST

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

SUMMARY

On June 1, 2017, the Louisville Metro Council passed a resolution (Attachment 1) 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. According to the Resolution, 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 passage of the resolution.

A reason behind the Resolution, as shown in its WHEREAS statements, is that in a single-family zoned neighborhood, a public institutional use must often go through the Community Facilities Review process. In this type of review, a proposed 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 resolution specifically states concern over siting and buffering and over visual, noise, traffic, and environmental impacts associated with such nonresidential uses on residential areas.

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, U-N districts.

RESEARCH

The table on the next page shows which single-family zoning districts allow institutional uses. The LDC makes no distinction between private and public institutional uses in terms of which zoning districts allow them. If an institutional use is not listed, then it is not permitted in a single-family zoning district.

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
Country clubs	P	R-E, R-1, R-2, R-3, R-4, R-5
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. Amendments to an LDC related to religious buildings 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 treat 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.

The Louisville Metro LDC currently allows religious buildings by right or permitted with standards in all zoning districts. 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.

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)

- Country clubs
- 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 not currently trigger compliance with these 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 these general design standards into play.

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.

STAFF CONCLUSIONS

The Planning Committee must determine if the request is ready for a public hearing before the Planning Commission. Staff recommends a hearing date of June 29, 2017.

ATTACHMENTS

1. Unsigned Metro Council Resolution Related to Private Institutional Uses in Single-Family Zoning Districts
2. Private Institutional Uses Text Amendment: Response from APA

1. Unsigned Metro Council Resolution Related to Private Institutional Uses in Single-Family Zoning Districts

ORDINANCE NO. _____, 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.

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 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 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 fifty (150) 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 (180) calendar days after its effective date unless repealed or extended.

H. Stephen Ott
Metro Council Clerk

David Yates
President of the Council

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; country clubs; 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.

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; country clubs; 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
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
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

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; country clubs; 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
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
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