

ORDINANCE No. 2021-11

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING A TEXT AMENDMENT TO THE CITY OF DORAL LAND DEVELOPMENT CODE, CHAPTER 74 "MISCELLANEOUS AND SUPPLEMENTARY REGULATIONS," ARTICLE VII "EDUCATIONAL AND CHILD CARE FACILITIES, NONPUBLIC," ESTABLISHING REGULATIONS FOR PUBLIC CHARTER SCHOOLS; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Florida Legislature authorized charter schools in 1996; and

WHEREAS, charter schools in Florida are public schools and are part of the state's public education system; and

WHEREAS, charter schools are tuition-free public schools created through an agreement or "charter" that provides flexibility relative to regulations created for traditional public schools in return for a commitment to higher standards of accountability; and

WHEREAS, since the City's inception in 2003 charter schools have played an important role in Doral and produced numerous **important** benefits, such as a high-quality education, expanded educational options for students, increased innovation by educators, and improved student achievement; and

WHEREAS, Section 1002.33(5)(a), Florida Statutes, provides that a district school board may sponsor a charter school in the county over which the district school board has jurisdiction; and

WHEREAS, charter schools expand the capacity of the public school system and can be used to mitigate the educational impact created by new residential development; and

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WHEREAS, City Staff deems necessary to amend Chapter 74, “Miscellaneous and Supplementary Regulations,” Article VII “Educational and Child Care Facilities, Nonpublic” of the City’s Land Development Code to establish requirements for charter schools within the City of Doral; and

WHEREAS, on April 28, 2021, the City Council of the City of Doral sitting as the Local Planning Agency (LPA) at a properly advertised hearing received testimony and evidence related to the proposed text amendment to the City’s Land Development Code as required by state law and local ordinances; and

WHEREAS, on April 28, 2021, the City Council of the City of Doral at a properly advertised hearing (First Reading) received testimony and evidence related to the proposed text amendment to the City’s Land Development Code as required by state law and local ordinances; and

WHEREAS, on June 23, 2021, the City Council of the City of Doral at a properly advertised hearing (Second Reading) received testimony and evidence related to the proposed text amendment to the City’s Land Development Code as required by state law and local ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL AS FOLLOWS:

Section 1. Recitals. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance upon adoption hereof.

Section 2. Code Amended. The Land Development Code of the City of Doral, Florida is hereby amended to read as follows:

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CHAPTER 74 – MISCELLANEOUS AND SUPPLEMENTARY REGULATIONS

ARTICLE VII. – EDUCATIONAL AND CHILD CARE FACILITIES, NONPUBLIC AND PUBLIC CHARTER SCHOOL FACILITIES

DIVISION 4. – PUBLIC CHARTER SCHOOL FACILITIES

74-395. - Applicability, purpose, and definitions.

Provisions of this article relating to public charter school facilities as defined herein shall be applicable in the City of Doral.

The purpose of this article is to provide standards for approval of public charter school facilities, within the City of Doral. Furthermore, consistent with the guiding principles of Chapter 1022.33, F.S., public charter schools within the City are highly encouraged to give enrollment preference to the following student populations:

(a) Students who are the children of a resident of the City of Doral.

Public charter schools are also encouraged to limit the enrollment process only to target students residing within a reasonable distance of the charter school.

As used in this article, the term "public charter school" or "charter school" shall mean an educational institution which is authorized and maintained in accord with the provisions of Chapter 1002, Florida Statutes, as same may be amended from time to time. All such public charter schools shall be additionally authorized locally by the Miami-Dade County School Board through a process established by that entity for the approval of the charter. The terms "child," "student," "pupil," and their plurals are used interchangeably in this article. For purposes of this article, student educational opportunities within a public charter school shall include one or more of the following:

(a) Kindergarten: preschool programs for children ages four (4) through six (6).

(b) Elementary school: educational programs for children in grades 1 through 5.

(c) Middle school: educational programs for children in grades 6 through 8.

(d) Senior high school: educational programs for children in grades 9 through 12.

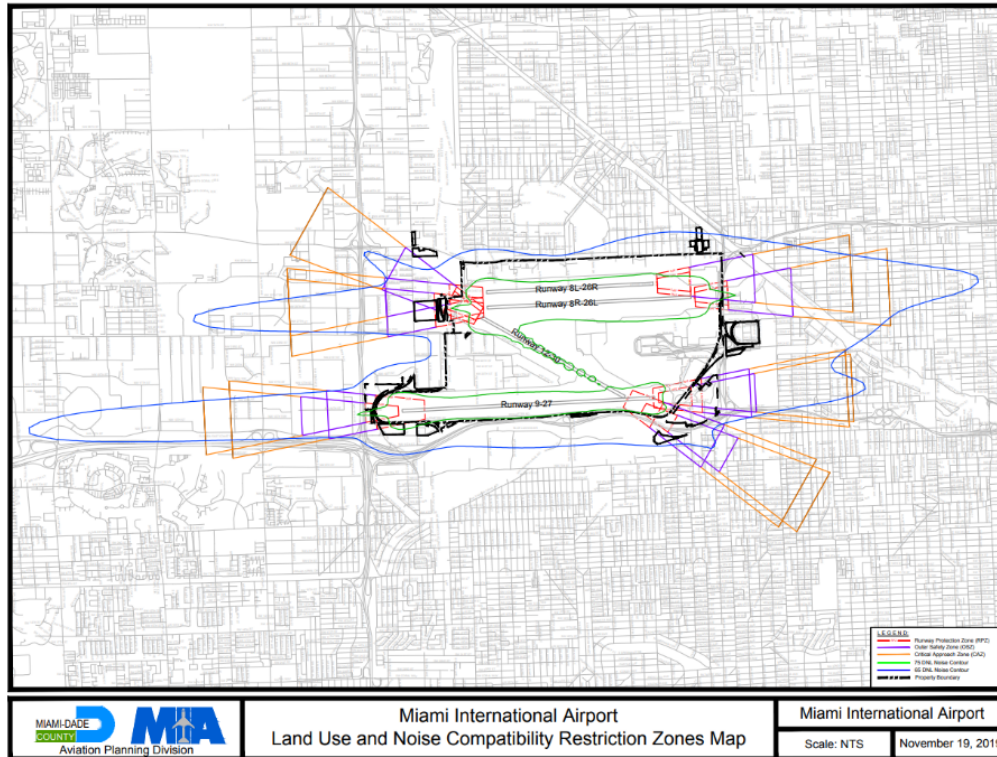
Sec. 74-396. – Prohibited

Educational facilities, including public charter schools shall be prohibited in the Industrial (I), Industrial Commercial (IC), and Industrial Restrictive (I-R) zoning districts and within the Outer Safety Zone (OSZ) of Miami International Airport (MIA) pursuant to

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Chapter 33, Article XXXVII of the Code of Miami-Dade County. The OSZ is depicted on the Land Use and Noise Compatibility Restriction Zones Map:



Sec. 74-397. - Public hearing required in all districts.

The establishment, expansion or modification of a charter school facility is permitted in all zoning districts except for Industrial (I), Industrial Commercial (IC), and Industrial Restrictive (I-R). A public hearing shall be required for all public charter schools. The schools shall demonstrate that the standards established in this article have been met. Any existing covenant or declaration of restrictions relating to an existing charter school facility shall be modified or deleted only in accordance with the provisions of Chapter 53, Article XII of this Code. Any expansion of a previously approved Charter School facility in Industrial (I), Industrial Commercial (IC), and Industrial Restrictive (I-R) zoning districts shall be governed by Sections 74-405 and 74-406.

Sec. 74-398. - Required information.

All public charter school facilities, as defined in this article, shall submit the following applicable information to the Planning and Zoning Department in accordance with the development procedures set forth in Chapter 53, Article III of this Code for review by the Department and for consideration at public hearing:

(A) *Written information*

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- (1) Total size of the site
 - (2) Maximum number of students to be served
 - (3) Maximum number of teachers and administrative and clerical personnel
 - (4) Maximum number of classrooms and total square footage of classroom space
 - (5) Total square footage of non-classroom space
 - (6) Amount and location of exterior recreational/play area in square footage
 - (7) Maximum number and type of vehicles that will be used in conjunction with the operation of the facility
 - (8) Number of parking spaces provided for staff, visitors, and transportation and operation vehicles, and justification that those spaces are sufficient for this facility
 - (9) Grades or age groups that will be served
 - (10) Days and hours of operation, weekly and annually
 - (11) An explanation of any such activities anticipated to be conducted in association with the charter school but typically conducted outside of the hours of operation of the charter school
 - (12) Means of compliance with requirements by the Miami-Dade County Fire Department, Miami-Dade County Department of Public Health, the Department of Health and Rehabilitative Services, and any Federal or State regulations applicable to the specific application
 - (13) A copy of the site-specific charter application as approved by the Miami-Dade County Public School Board (School Board). It is provided, however, that no certificate of use shall be issued until the Department reviews the executed charter contract approved by the School Board to confirm that the contract's permitted grade levels, number of students, and school location conform to the public charter school facility approved pursuant to this article. In lieu of an executed charter application or contract as required above, the Department shall accept the School Board Clerk's official copy of the School Board resolution approving the required application or contract and a copy of the application or contract presented to the School Board.
- (B) Graphic information. The following graphic information shall be prepared by design professionals, such as registered Florida architects and landscape architects:
- (1) A plan indicating existing zoning on the site and adjacent areas
 - (2) A site plan indicating the following:
 - (a) Location of all structures
 - (b) Parking layout, automobile stacking area and drives

- (c) Walkways and paths
- (d) Location of recreation areas and play equipment which shall include surrounding fences and/or walls
- (e) Any other features which can appropriately be shown in plan form.
- (3) Floor plans and elevations of all proposed structures.
- (4) Landscape development plan listing quantities, size, and names of all plants in accordance with Chapter 71 of this Code.

Sec. 74-399. - Charter school within multiple-use facility.

Where a charter school facility is to be operated in a structure simultaneously used as a residence, religious facility or other type of facility, the area which will be specifically used for the charter school facility during the hours of operation shall be clearly defined. As specified in section 74-398 above, the applicant for charter school approval shall additionally provide explanation regarding any activities anticipated to be conducted in conjunction with the charter school, including, but not limited to, adult education classes, community outreach facilities, and civic building use. Such uses not determined by the Director to be directly associated with the charter school operation shall require approval as otherwise specified within this Code.

Sec. 74-400. - Physical standards. All charter school facilities shall meet the minimum requirements included herein.

- (a) Outdoor areas. Outdoor recreation/play areas are not required. Where same are provided the outdoor recreation/play area shall, wherever possible, be located so that the recreation/play area is not immediately adjacent to single-family residences or section line roads, nor create incompatible impacts on other immediately adjacent properties. Adequate screening in the form of a wall, fence and/or landscaping shall be provided wherever the outdoor/play area abuts a property under different ownership. Direct access from the school building(s) shall be provided to outdoor recreation/play area and athletic fields without crossing roads, on-site traffic lanes, and parking lots.
- (b) Signs. Signs shall comply with district regulations as contained in Chapter 80 of the City of Doral Code; provided, however, that the total square footage of all freestanding signs in any residential district shall not exceed forty (40) square feet in size.
- (c) Auto stacking. Stacking space, defined as that space in which pickup and delivery of children can take place, may be provided in the form of specified parking stalls and/or areas clear of vehicular drive aisles. Stacking space shall be provided for a minimum of two (2) automobiles for charter schools with twenty (20) to forty (40) children; schools with forty-one (41) to sixty (60) children shall provide four (4) spaces; thereafter there shall be provided a space sufficient to stack five (5) automobiles.
- (d) Parking requirements. Parking requirements shall be provided in accordance with Chapter 77 of this Code.

- (e) Height. The structure height shall not exceed the height permitted for that site by the existing underlying zoning district.
- (f) Trees. Landscaping and trees shall be provided in accordance with Chapter 71 of this Code.
- (g) Charter school facilities as described herein shall be prohibited from operating on property abutting or containing a water body such as a pond, lake, canal, or irrigation well unless a safety barrier is provided which totally encloses or affords complete separation from such water hazards. Swimming pools and permanent wading pools in excess of eighteen (18) inches in depth shall be totally enclosed and separated from the balance of the property so as to prevent unrestricted admittance. All such barriers shall be a minimum of forty-eight (48) inches in height and shall comply with the following standards:
 - (1) Gates shall be of the spring back type so that they shall automatically be in a closed and fastened position at all times. Gates shall also be equipped with a safe lock and shall be locked when the area is without adult supervision.
 - (2) All safety barriers shall be constructed in accordance with the standards established in Chapter 74, Article V of this Code.
- (h) Lot coverage and floor area ratio. The charter school facility shall not exceed the lot coverage and floor area ratio allowed by the underlying zoning district.
- (i) Building setbacks. The charter school facility shall comply with the setbacks established by the underlying zoning district.

Sec. 74-401. - Cessation of charter school operation.

The owners of property where a charter school facility is proposed to be located shall, at time of public hearing application, submit a document in a form approved by the City Attorney suitable for recording in the public records and assuring the following:

If the charter school facility is constructed but fails to begin operation and/or the charter school fails after establishment, that the property owner, within 36 months of the facility's failure to begin operation or closure shall cause:

- (a) The facility to be in full compliance with all zoning regulations applicable to the property on which the charter school is located and allowing a use other than the charter school use, or
- (b) The operation of the charter school facility to be transferred to another charter school operator or the School Board, approved through applicable processes of the Miami-Dade County School Board, or
- (c) The charter school facility to be converted to an allowable use within the zoning district, provided said allowable use has first been authorized through the issuance of the appropriate permits.

Sec. 74-402. - Plan review standards.

- (a) Scale. The scale of proposed public charter school facilities shall be compatible with the scale of surrounding proposed or existing uses and shall be made compatible by the use of buffering elements.
- (b) Compatibility. The design of public charter school facilities shall be compatible with the design, kind, and intensity of uses and scale of the surrounding area.
- (c) Buffers. Buffering elements shall be utilized for visual screening and substantial reduction of noise levels at all property lines where necessary.
- (d) Landscape. Landscape shall be preserved in its natural state insofar as is practicable by minimizing the removal of trees or the alteration of favorable characteristics of the site. Landscaping and trees shall be provided in accordance with Chapter 71 of this Code.
- (e) Circulation. Pedestrian and auto circulation shall be separated insofar as is practicable, and all circulation systems shall adequately serve the needs of the facility and be compatible and functional with circulation systems outside the facility.
- (f) Noise. Effective measures shall be provided to keep noise at acceptable levels.
- (g) Service areas. Wherever service areas are provided, they shall be screened and so located as to be compatible with the adjacent properties.
- (h) Parking areas. Parking areas shall be screened and so located as to be compatible with the adjacent properties.
- (i) Operating time. The operational hours of a public charter school facility shall be compatible with the activities of other adjacent properties.
- (j) Industrial and commercial. Where schools are proposed in or adjacent to, industrial or commercial areas it shall be clearly demonstrated in graphic form and otherwise, how the impact on the commercial or industrial area has been minimized through site design techniques and/or operational modifications.
- (k) Fences and walls. Outdoor recreation and/or play areas shall be enclosed with fences and/or walls.
- (l) All charter schools shall be constructed to meet a nationally recognized high-performance green building rating system in accordance with Chapter 63 of this Code.

Sec. 74-403. - Certificate of use.

The certificate of use shall be automatically renewable annually by the Department upon compliance with all terms and conditions including maintenance of the facility in accordance with the approved plan and adopted zoning resolution. Said certificate of use is subject to cancellation upon violation of any of the conditions contained in this article or upon notification from the School Board of revocation of the charter of the public charter school.

Sec. 74-404. - Previously approved schools.

It is not the intention of this article to require any changes in any public charter school facilities that prior to the effective date of this article have received final approval from the School Board of Miami-Dade County of a final charter contract specifying the charter school's site. Further, the provisions of this article shall not be applicable to the establishment of any new charter school upon demonstration of the following circumstances: (a) prior to the effective date of this article the proposed new charter school was presented during a public zoning hearing as a part of a development plan to the Mayor and City Council; and (b) prior to or at the public hearing, the zoning applicant presenting such development plan provided a declaration of restrictive covenants or other recordable assurances binding the applicant or successor to provide a charter school at a specified location, with a specified maximum number of students and specified grade levels.

Any school lawfully established prior to the effective date of this article and any school established pursuant to this article, which ceases operations for 36 months or longer, shall be re-established only upon approval after public hearing in accordance with this article. Any expansion or modification of the previous approval for any school lawfully established prior to the effective date of this article and any school established pursuant to this article shall only be approved after public hearing in accordance with this article.

It is not the intention of this article to prevent a proposed school from completing the site plan approval process for the establishment of a new school in the I, IC or IR zoning districts provided the site plan application is pending as of the effective date of the ordinance or prevent a proposed school approved by the Mayor and Council at a public zoning hearing from establishing a temporary location in I, IC or IR zoning districts provided it obtains a building permit within ninety (90) days of the effective date of the ordinance and such use ceases at the conclusion of the school year.

With the exceptions noted above, all school facilities shall comply with the requirements of this article.

Sec. 74-405. - . Repair; alteration, enlargement of school facilities.

Repairs, maintenance, and improvements to existing schools may be carried out, provided such work does not expand the use or facility. Any expansion must comply with all applicable laws and ordinances and be approved by the City Council at a public hearing.

Sec. 74-406. - . Reconstruction.

(1) For the purpose of this section, "catastrophe" means any destructive force whether caused naturally or otherwise.

(2) Any building or structure which is currently operating as a school in the Industrial (I), Industrial Commercial (IC), and Industrial Restrictive (I-R) zoning districts that is damaged by fire, flood, explosion, collapse, wind, war or other catastrophe may be repaired, reconstructed, reestablished and operated as a school. Reconstructed structures shall be subject to the applicable fire, building code and City ordinances at the time of the issuance of building permits for the reconstruction. The repaired or reconstructed building shall not exceed the square footage of the building prior to the damage, regardless of the extent of the damage, unless approved by the City Council at a public hearing.

(3) A previously established school facility in the Industrial (I), Industrial Commercial (IC) and Industrial Restrictive (I-R) Zoning Districts may be enlarged or expanded upon approval by the City Council at public hearing.

(4) A previously established school facility in the Industrial (I), Industrial Commercial (IC) and Industrial Restrictive (I-R) Zoning Districts may expand its facility off site provided the expansion of the school off site is limited to a contiguous parcel of property and the proposed expansion is approved by the City Council at public hearing. For purposes of this ordinance, the term "contiguous" shall be limited to adjacent parcels and parcels that would share a boundary with the subject parcel if not for a road that separates the two properties.

Section 3. Codification. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and made part of the City of Doral Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4. Severability. That if any section, subsection, sentence, clause, phrase, work or amount of this ordinance shall be declared unconstitutional or invalid by competent authority, then the remainder of the ordinance shall not be affected thereby and shall remain in full force and effect.

Section 5. Conflicts. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

Section 6. Effective Date. This Ordinance shall be effective immediately upon passage by the City Council on second reading.

The foregoing Ordinance was offered by Councilmember Mariaca who moved its adoption. The motion was seconded by Councilmember Cabral upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Pete Cabrera	No
Councilwoman Digna Cabral	Yes
Councilwoman Claudia Mariaca	Yes
Councilman Oscar Puig-Corve	Yes

PASSED AND ADOPTED on FIRST READING this 28 day of April, 2021.

PASSED AND ADOPTED on SECOND READING this 23 day of June, 2021.



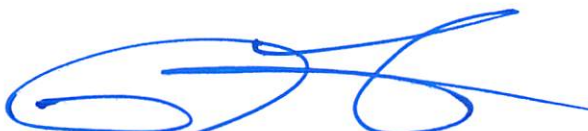
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



CONNIE DIAZ, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



LUIS FIGUEREDO, ESQ.
CITY ATTORNEY

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