

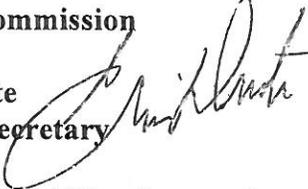


PLANNING COMMISSION

Planning & Development Services Department • 201 N. Stone Ave. • Tucson, AZ 85701

DATE: September 2, 2009

TO: Planning Commission

FROM: Ernie Duarte
Executive Secretary 

SUBJECT: Recently adopted State law on charter schools and the use of single family residences.

Issue – This item is for discussion by the Planning Commission in a Study Session. Because of a recently adopted State law affecting the use of charter schools in single family residences, there is a need to amend the Land Use Code (LUC).

Recommendation – Staff recommends that the Planning Commission recommend that Mayor and Council initiate a text amendment to address charter schools and single family residences in accordance with the recently adopted H.B. 2099.

Background – The State Legislature, in its 2009 session, passed House Bill 2099 that amended Arizona Revised Statutes Section 15.189.01. See the attached bill. The bill was signed by the Governor and will become effective on October 1, 2009.

The bill deals with how zoning regulations may affect charter schools in similar ways that zoning affects public schools. Most of the bill does not require any amendments to the City of Tucson's LUC. There is one provision that states a charter school is prohibited from using a single family residence as a school site where the residence is on property that is less than one acre in size.

If the Planning Commission is in agreement for the need for an LUC text amendment, it should recommend to the Mayor and Council to initiate a text amendment to make the necessary change.

The change would be an added subsection to Section 3.5.3.7 (Educational Uses). To comply with H.B. 2009, the language may say: "A single family residence on less than one acre shall not be occupied as or converted into a State regulated charter school."

DRAFT

City of Tucson Land Use Code Article III. Development Regulations Division 5. Performance Criteria

3.5.3 CIVIC USE GROUP

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3.5.3.7 Educational Uses. Educational Uses are subject to the following performance criteria. No variances are permitted; however, if the criteria cannot be met, the applicant can request approval through a Special Exception Land Use if permitted within the zone.

A. Licensing.

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B. Site Area

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H. A single family residence on less than one acre shall not be occupied as or converted into a State regulated charter school.

Attachments:

Attachment A: H.B. 2099

S:\Code Revision\

House Engrossed

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HOUSE BILL 2099

AN ACT

AMENDING SECTION 15-189.01, ARIZONA REVISED STATUTES; RELATING TO CHARTER SCHOOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-189.01, Arizona Revised Statutes, is amended to
3 read:

4 ~~15-189.01.~~ Charter schools; zoning; development fees

5 A. Charter schools shall be classified as public schools for the
6 purposes of ZONING AND the assessment of zoning fees, site plan fees and
7 development fees. MUNICIPALITIES AND COUNTIES SHALL ALLOW A CHARTER SCHOOL
8 TO BE ESTABLISHED AND OPERATE AT A LOCATION OR IN A FACILITY IN WHICH SCHOOLS
9 OPERATED BY SCHOOL DISTRICTS ARE NOT PROHIBITED BY THE ZONING REGULATIONS OF
10 THE COUNTY OR MUNICIPALITY, EXCEPT THAT A COUNTY OR MUNICIPALITY MAY ADOPT
11 ZONING REGULATIONS THAT PROHIBIT A CHARTER SCHOOL FROM OPERATING IN AN
12 EXISTING SINGLE FAMILY RESIDENCE THAT IS LOCATED ON PROPERTY OF LESS THAN AN
13 ACRE.

14 B. A CHARTER SCHOOL IS SUBJECT TO THE SAME LEVEL OF OVERSIGHT AND THE
15 SAME ORDINANCES, LIMITATIONS AND REQUIREMENTS, IF ANY, THAT WOULD BE
16 APPLICABLE TO A SCHOOL THAT IS OPERATED BY A SCHOOL DISTRICT.

17 C. THE CONSTRUCTION AND DEVELOPMENT OF THE CHARTER SCHOOL FACILITY
18 SHALL BE SUBJECT TO THE BUILDING CODES, INCLUDING LIFE AND SAFETY BUILDING
19 CODES, OF THE MUNICIPALITY, COUNTY OR STATE.

20 D. Municipalities and counties shall adopt procedures to ensure that
21 hearings and administrative reviews involving charter schools are scheduled
22 and conducted on an expedited basis and that charter schools receive a final
23 determination from the municipality or county within thirty days of the
24 beginning of processes requiring only an administrative review and within
25 ninety days of the beginning of processes requiring a public hearing and
26 allowing an appeal to a board of adjustment, city or town council GOVERNING
27 BODY or board of supervisors.

28 ~~B.~~ E. No political subdivision of this state may enact or interpret
29 any law, rule or ordinance in a manner that conflicts with subsection A.