

## Issue 1

Are Micanopy's minimum lot size requirements provided in Micanopy Code Section 4.02.13 unenforceable against the MACS proposed use of the R-2 lot as a public school because it is a charter school as provided in Florida Statute 1002.33?

- i. Front: one hundred (100) feet;
- ii. Side, each: thirty-five (35) feet;
- iii. Rear: fifty (50) feet

### 2.02.03 RESIDENTIAL DISTRICTS: R-1 and R-2.

#### A. Purpose.

1. The R-1 district is designed primarily to accommodate low density single family residences in areas that are not served by public water or central sewer facilities and are not yet appropriate for development at higher densities.
2. The R-2 district is designed primarily to accommodate single-family detached residential uses (other than mobile homes) at densities to be determined by the availability of public water and central sewer facilities.

#### B. Uses Permitted by Right

1. Single family dwelling units.
2. Public parks and recreational facilities.
3. Public buildings and facilities in keeping with the character and requirements of the district except those otherwise specified.

#### C. Uses Permitted by Special Use Permit

1. Public and private elementary, middle, and high schools.
2. Parks maintained by any private association of persons residing in the district.
3. Nursing homes, rehabilitation facilities, and assisted-living facilities.
4. Places of worship and assembly.
5. Cemeteries and mausoleums.
6. Day care centers, which are not considered Family Day Care Centers by the State of Florida.

7. Home Occupations.
8. Homes of seven (7) or more residents which otherwise meet the criteria of a Community Residential Home.

D. Dimensional Requirements: All principal and accessory structures shall be located and constructed in accordance with the following requirements:

	R-1	R-2
<b>Principal Structures</b>		
Minimum lot area	1 acre	0.5 acre
Minimum lot width	100 feet	85 feet
Minimum yard setbacks:		
Front	25 feet	25 feet
Side	25 feet	15 feet
Side, road	25 feet	15 feet
Rear	50 feet	15 feet
Maximum structure height	40 feet	40 feet
<b>Accessory Structures</b>		
Side/rear setbacks	5 feet	5 feet
Maximum structure height	25 feet	25 feet

2.02.04 COMMERCIAL, MIXED-USE DISTRICTS: C-1 and C-2

A. Purpose

1. C-1 Limited Commercial District. The C-1 district is intended for general retail and commercial or office service activities. Businesses in this category require locations that are convenient to automotive and pedestrian traffic. Higher density residential uses are permitted. Single-family structures or duplexes may be permitted.
2. C-2 General Commercial District. The C-2 district is designed to accommodate more intense commercial activities that generally require large land areas. Higher density residential uses are permitted. Single-family residences may be permitted. This district generally does not cater to pedestrians. Any commercial use proposed within 100 feet of a parcel of property used for residential purposes or which has a zoning designation of R-1 or R-2.

## ARTICLE 4. SPECIFIC USES

### 4.01 APPLICABILITY.

4.01.01 The requirements of this Article shall be applicable to each specific use identified herein, regardless of the zoning district in which the use is located, regardless of whether the use is permitted as of right or by special use permit, and regardless of any less restrictive requirements generally applicable to the district in which the use is located. However, when any particular requirement or limitation generally applicable in any zoning district, or when any requirement or limitation imposed by the Town Commission as a condition of a special use permit approval, is additional to or more restrictive than the requirements and limitations contained in this article, the additional and more restrictive requirements or limitations shall apply, unless specifically provided otherwise in this Article.

4.01.02 In any district where a use is permitted by a special use permit and the dimensional requirements for such use are not specified, any dimensional limitation shall be as required by the Town Commission. Such dimensional limitations shall be established in consideration of the general requirements for the particular zoning district and the general limitations on uses permitted by special use permit, but in no event shall they be less restrictive than any particular dimensional limitation specified in this Article.

### 4.02 SPECIFIC USE REGULATIONS

#### 4.02.01 DAY CARE CENTERS.

A. Dimensional requirements. All day care centers shall be located and constructed in accordance with the following requirements:

1. Minimum lot area: Ten thousand (10,000) square feet.
2. Minimum lot width at minimum front yard setback: One hundred (100) feet.
3. Minimum yard setbacks:
  - a. Front: Twenty-five (25) feet.
  - b. Rear: Twenty (20) feet.

2. Separate toilet and bathing facilities for the exclusive use of guests must be provided.
3. Rentals shall be on a daily basis. The maximum stay for an individual guest shall be thirty (30) days in a twelve-month period.
4. The Alachua County Health Department shall approve cooking facilities. Cooking shall be permitted in bed and breakfast establishments located in residential zoning districts for overnight guests and residents only. No cooking facilities shall be allowed in guest bedrooms.
5. Neither hired receptions nor parties shall be permitted in bed and breakfast establishments located in residential zoning districts.
6. Bed and breakfast establishments must comply with appropriate health permits, building and fire codes, and business licenses, including but not limited to a license from the Florida Division of Hotels and Restaurants, if applicable to such use.
7. In addition to the parking required for the residence, one (1) parking space shall be provided for each guestroom. The Planning and Historic Preservation Board may vary the parking requirement based on site constraints including, but not limited to, small yards, inadequate space for parking, and the availability of on-road parking.
8. Signs shall be no larger than twenty-four (24) square feet in size.

**4.02.13. PRIVATE SCHOOLS / CHARTER SCHOOLS.**

**A. Dimensional requirements.**

1. Minimum lot area shall be the minimum lot area required for the specific zoning district where allowed plus one (1) acre for every one hundred (100) students (or fraction thereof), except where the lot size is five (5) acres or more, based on building code capacity.
2. Minimum yard setbacks:
  - a. Front: Twenty-five (25) feet.

b. Rear: Twenty (20) feet. Except where the yard abuts property which is in a residential district or which is shown for residential use on the land use element of the comprehensive plan: Fifty(50) feet.

c. Side:

i. Interior: Twenty (20) feet. Except where the yard abuts property which is in a residential district or which is shown for residential use on the land use element of the comprehensive plan: Fifty (50) feet.

ii. Road: Twenty-five (25) feet.

3. Maximum building height: Thirty-five (35) feet.

#### 4.02.14. ALCOHOLIC BEVERAGE ESTABLISHMENTS.

##### A. Spacing requirements.

1. No alcoholic beverage establishment may be located within five hundred (500) linear feet of an established place of worship and assembly, which distance shall be measured by extending a straight line from the nearest property line of the alcoholic beverage establishment to the nearest property line of the place of worship and assembly.

2. No alcoholic beverage establishment may be located within five hundred (500) linear feet of any public or private school, which distance shall be measured by extending a straight line from the nearest property line of the alcoholic beverage establishment to the nearest property line of the school.

##### B. Site plan approval. Site plan approval shall be required prior to the issuance of a development order for any or all of the following:

1. The construction of any new alcoholic beverage establishment or any change of any use of space for new alcoholic beverage establishments;

2. The construction of any new parking spaces required or provided for the building or structure in which an existing

**LEGAL OPINION**

TO: Planning and Historic Preservation Board (PHPB)  
FROM: Office of the Town Attorney  
DATE: December 15, 2025  
RE: MACS Final Site Plan

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**Context:**

The MACS Final Site Plan Review is scheduled to be heard on December 16, 2025. The MACS Preliminary Site Plan Review was conducted on October 7, 2025 at which the PHPB voted unanimously to approve the site plan with the following conditions:

- 1. Final review by the Town’s contracted planner and engineer for LDC compliance
- 2. Review by Alachua County Fire Marshall
- 3. Implementation of a tree protection zone as recommended by the tree committee

The PHPB will determine on December 16, 2025 whether all of these conditions have now been met upon review of the correspondence attached to the Agenda and testimony presented at the hearing.

**Issue #1:**

Whether the Site Plan is compliant with the setback requirements set forth in the LDC.

**Answer:**

Yes. The section of the LDC referenced by citizens at the October 7, 2025 meeting applies to “accessory structures”, which is defined as “[a] subordinate detached structure, the use of which is customarily and normally incidental to that of the principal use on the same lot and does not include residential uses.” The septic system/drain field in the site plan is not an accessory structure. It is an underground system. Accordingly, these setback regulations do not apply.

**Issue #2:**

Whether the lot size for MACS is too small for the proposed number of students and therefore not compliant with the minimum lot size requirements of the LDC.

**Answer:**

No. Fla. Stat. § 1002.33, which became effective July 1, 2025, prohibits local governments from imposing greater standards and restrictions on charter schools than on public schools. Sec. 4.02.13 of the LDC setting forth the minimum lot size requirements only applies to “Private Schools/Charter Schools.” See below:

#### 4.02.13. PRIVATE SCHOOLS / CHARTER SCHOOLS.

##### A. Dimensional requirements.

1. Minimum lot area shall be the minimum lot area required for the specific zoning district where allowed (R-2 = 21,780 sf (0.5 acres) + C-1 = 10,000 sf (.23 acre); TOTAL = 31,780 sf (0.73 acres)) plus one (1) acre for every one hundred (100) students (or fraction thereof)(0.57 acres), except where the lot size is five (5) acres or more, based on building code capacity.

The LDC does not impose these same restrictions upon public schools. Accordingly, this section of the LDC imposing a minimum lot size upon a charter school is unenforceable and pre-empted by state law.

Charter schools that are not conversion schools are governed by the Florida Building Code.

Florida Building Code Sec. 453.8.2 states school facility size shall be subject to the standards set forth in the “size of space and occupant design criteria table” found in the Department of Education’s “State Requirements for Educational Facilities.”

However, Fla. Stat. § 1002.33(18)(a) states “[a] startup charter school shall utilize facilities which comply with the Florida Building Code pursuant to chapter 553 except for the State Requirements for Educational Facilities. . . .

Charter schools, with the exception of conversion charter schools, are not required to comply, but may choose to comply, with the State Requirements for Educational Facilities of the Florida Building Code adopted pursuant to s. 1013.37.

Fla. Stat. § 1013.36 provides that “[e]ach new site selected must be **adequate in size** to meet the educational needs of the students to be served on that site by the original educational facility or future expansions of the facility through renovation or the addition of relocatables.”

All of these statutory provisions address the size of the actual facility, not the size of the lot on which the facility is constructed.

##### **Issue #3:**

Whether MACS needs a special use permit since 1 parcel of the site is zoned R2 and Sec. 2.02.03(C) of the LDC states a special use permit is required for public and private schools in residential district.

##### **Answer:**

Yes. Fla. Stat. § 1002.33, which became effective July 1, 2025, prohibits local governments from imposing greater standards and restrictions on charter schools than on public schools. Because the LDC applies the same standard to public and private schools, it is not pre-empted by statute in this respect and MACS must obtain a special use permit to operate on the residential parcel.

section and any other section of this Land Development Code or any caption, illustration, summary table or illustrative table, the specific section text of this Land Development Code shall control except as provided in Section 1.06.01.A, above.

- C. The word "shall" is mandatory and not discretionary. The word "may" is permissive.
- D. Words used or defined in the present tense shall include the future; words used in the singular number shall include the plural; and words in the plural shall include the singular, unless the context clearly indicates the contrary.
- E. The phrase "used for" includes "arranged for," "designed for," "maintained for," "provided for," or "occupied for."
- F. Unless the context clearly indicates the contrary, where the regulation involves two (2) or more items, conditions, provisions or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
  - 1. "And" indicates that all connected items, conditions, provisions or events shall apply.
  - 2. "Or" indicates that all connected items, conditions, provisions or events may apply singularly or in any combination.
  - 3. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- G. The word "includes" or "including" shall not limit a term to the specified examples but is intended to extend its meaning to all instances or circumstances of the like kind of character.

#### 1.05.02 DEFINITIONS.

- A. Whenever used in this Land Development Code, unless otherwise indicated, the terms Code, LDC, chapter, article, section and subsection shall refer to the Micanopy Land Development Code and the referenced provisions thereof.
- B. Any word or phrase used in this Land Development Code which is not defined in this Land Development Code shall have the common dictionary meaning most appropriate to the context in which the word or phrase is used or shall have the definition found in Florida Statutes.
- C. Throughout this Land Development Code, the following words and phrases shall have the meanings indicated unless the text of the article or section in which used clearly indicates otherwise:

Select Year: 2025 ▼ Go

## The 2025 Florida Statutes

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Title XLVIII  
EARLY LEARNING-20  
EDUCATION CODE

Chapter 1002  
STUDENT AND PARENTAL RIGHTS AND  
EDUCATIONAL CHOICES

[View Entire  
Chapter](#)

### **1002.33 Charter schools.—**

(1) **AUTHORIZATION.**—All charter schools in Florida are public schools and shall be part of the state’s program of public education. A charter school may be formed by creating a new school or converting an existing public school to charter status. A charter school may operate a virtual charter school pursuant to s. [1002.45\(1\)\(c\)](#) to provide online instruction to students, pursuant to s. [1002.455](#), in kindergarten through grade 12. The school district in which the student enrolls in the virtual charter school shall report the student for funding pursuant to s. [1011.61\(1\)\(c\)1.b.\(VI\)](#), and the home school district shall not report the student for funding. An existing charter school that is seeking to become a virtual charter school must amend its charter or submit a new application pursuant to subsection (6) to become a virtual charter school. A virtual charter school is subject to the requirements of this section; however, a virtual charter school is exempt from subparagraph (7)(a)13., subsections (18) and (19), paragraph (20)(c), and s. [1003.03](#). A public school may not use the term charter in its name unless it has been approved under this section.

#### (2) **GUIDING PRINCIPLES; PURPOSE; LEGISLATIVE INTENT.**—

##### (a) Charter schools in Florida shall be guided by the following principles:

1. Meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within this state’s public school system.
2. Promote enhanced academic success and financial efficiency by aligning responsibility with accountability.
3. Provide parents with sufficient information on whether their child is reading at grade level and whether the child gains at least a year’s worth of learning for every year spent in the charter school.

##### (b) Charter schools shall fulfill the following purposes:

1. Improve student learning and academic achievement.
2. Increase learning opportunities for all students, with special emphasis on low-performing students and reading.
3. Encourage the use of innovative learning methods.
4. Require the measurement of learning outcomes.

##### (c) Charter schools may fulfill the following purposes:

1. Create innovative measurement tools.
2. Provide rigorous competition within the public school system to stimulate continual improvement in all public schools.
3. Expand the capacity of the public school system.
4. Mitigate the educational impact created by the development of new residential dwelling units.
5. Create new professional opportunities for teachers, including ownership of the learning program at the school site.

(d) It is the intent of the Legislature that charter school students be considered as important as all other students in this state and, to that end, comparable funding levels from existing and future sources should be maintained for charter school students.

#### (3) **APPLICATION FOR CHARTER STATUS.**—



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## The 2025 Florida Statutes

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Title XLVIII  
EARLY LEARNING-20 EDUCATION  
CODE

Chapter 1000  
EARLY LEARNING-20 GENERAL  
PROVISIONS

View Entire  
Chapter

**1000.04 Components for the delivery of public education within the Florida Early Learning-20 education system.**—Florida’s Early Learning-20 education system provides for the delivery of early learning and public education through publicly supported and controlled K-12 schools, Florida College System institutions, state universities and other postsecondary educational institutions, other educational institutions, and other educational services as provided or authorized by the Constitution and laws of the state.

(1) **EARLY LEARNING.**—Early learning includes the Voluntary Prekindergarten Education Program and the school readiness program.

(2) **PUBLIC K-12 SCHOOLS.**—The public K-12 schools include charter schools and consist of kindergarten classes; elementary, middle, and high school grades and special classes; virtual instruction programs; workforce education; career centers; adult, part-time, and evening schools, courses, or classes, as authorized by law to be operated under the control of district school boards; and lab schools operated under the control of state universities.

(3) **PUBLIC POSTSECONDARY EDUCATIONAL INSTITUTIONS.**—Public postsecondary educational institutions include workforce education; Florida College System institutions; state universities; and all other state-supported postsecondary educational institutions that are authorized and established by law.

(4) **FLORIDA SCHOOL FOR THE DEAF AND THE BLIND.**—The Florida School for the Deaf and the Blind is a component of the delivery of public education within Florida’s Early Learning-20 education system.

(5) **THE FLORIDA VIRTUAL SCHOOL.**—The Florida Virtual School is a component of the delivery of public education within Florida’s Early Learning-20 education system.

(6) **FLORIDA SCHOLARS ACADEMY.**—The Florida Scholars Academy is a component of the delivery of public education within the Florida Early Learning-20 education system.

**History.**—s. 6, ch. 2002-387; s. 23, ch. 2004-41; s. 69, ch. 2004-357; s. 1, ch. 2008-147; s. 3, ch. 2011-5; s. 11, ch. 2011-137; s. 19, ch. 2021-10; s. 3, ch. 2023-59; s. 6, ch. 2023-245; s. 7, ch. 2025-110.





Book	Policy Manual
Section	7000 Property
Title	SITE ACQUISITION
Code	po7240
Status	Active
Adopted	July 17, 2007
Last Revised	July 31, 2025

#### **7240 - SITE ACQUISITION**

##### **Purpose of Site Acquisition**

In order to operate, control, and supervise public schools in the District, this Board must make adequate provision for the acquisition of sites as are necessary and essential to accommodate students, faculty, administrators, staff, and activities of educational programs for the District, and to provide support services to those educational programs.

Before acquiring property for sites, the Board shall determine the location of proposed educational centers or campuses. In making this determination, the Board shall consider existing and anticipated site needs and the most economical and practicable locations of sites. Additionally, the Board will coordinate with the long-range or comprehensive plans of local, regional, and State governmental agencies to assure the consistency of such plans.

Each site identified for acquisition must:

- A. be adequate in size to meet the educational needs of the students to be served on that site by the original educational facility or future expansions of the facility through renovation or the addition of relocatables;
- B. meet standards prescribed in Florida law and such supplementary standards as the State Board of Education prescribes to promote the educational interests of the students;
- C. be well drained and suitable for outdoor educational purposes as appropriate for the educational program or collocated with facilities to serve this purpose;
- D. as provided in F.S. 333.03, the site must not be located within any path of flight approach of any airport;
- E. insofar as is practicable, not adjoin a right-of-way of any railroad or through highway and not be adjacent to any factory or other property from which noise, odors, or other disturbances, or at which conditions, would be likely to interfere with the educational program; and
- F. to the extent practicable, be chosen which will provide safe access from neighborhoods to schools.

##### **Negotiations**

The Superintendent shall be responsible for site acquisition negotiations and compliance with other provisions set forth in F.S. 1013.36.

Consideration of school site acquisition shall include the following factors:

- A. convenience for student transportation, both on foot and by way of efficient bus routing;
- B. available acreage for buildings, recreation, and parking with a recommended minimum of twenty (20) acres per elementary school site, thirty-five (35) acres per middle school site, and sixty-five (65) acres per high school site;
- C. sufficient distance from active airport pathways and railroads;
- D. ease of access, with a recommended minimum of two (2) roads reaching the site;
- E. avoidance of traffic hazards, noise, smoke, dust, and offensive odors;
- F. availability of utility service for water, sewage, and electricity;
- G. zoning of surrounding areas;
- H. soil and environmental suitability;
- I. land contour, which shall be reasonably level with good drainage;
- J. Board-solicited property value appraisals; and
- K. cost.

### **Appraisals**

Before acquisition of real property, the Board shall obtain at least one (1) appraisal by an appraiser approved pursuant to F.S. 253.025 for each purchase in an amount greater than \$100,000 and not more than \$500,000. For each purchase in an amount in excess of \$500,000, the Board shall obtain at least two (2) appraisals by appraisers approved pursuant to F.S. 253.025. If the agreed to purchase price exceeds the average appraised value, the Board will approve the purchase by an extraordinary vote.

### **Public Records**

In accordance with F.S. Chapter 1013, when the Board seeks to acquire by purchase any real property for educational purposes, every appraisal, offer, or counteroffer must be in writing and is exempt from the provisions of F.S. 119.07(1) until an optional contract is executed or, if no optional contract is executed, until thirty (30) days before a contract or agreement for purchase is considered for approval by the Board. If a contract or agreement for purchase is not submitted to the Board for approval, the exemption from F.S. 119.07(1) shall expire thirty (30) days after the termination of negotiations.

The Board shall maintain complete and accurate records of every such appraisal, offer, and counteroffer. For the purposes of this policy, the term "optional contract" means an agreement by the Board to purchase a piece of property, subject to the approval of the Board at a public meeting after thirty (30) days' public notice.

Nothing in this policy shall be interpreted as providing an exemption from, or an exception to, F.S. 286.011.

### **Approval of Site Acquisition**

Official Board action during a public meeting is required to execute a valid contract, and a record of that action must be a part of the minutes of the Board. The process used in acquiring real property must be in accordance with law. Any deviation from the strict requirements of the law may render the transaction void.

### **Lease, Rental, or Lease-Purchase Agreements**

Any lease, rental, or lease-purchase of educational plants, ancillary plants, and auxiliary facilities and sites shall adhere to the requirements of F.S. 1013.15.

Revised 7/31/25

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Legal F.S. 1001.42

F.S. 1013.14

F.S. 1013.33

F.S. 1013.36

**Last Modified by Tamela Moody on August 25, 2025**