



Zoning by Design, Exclusion by Accident: How Local Ordinances Block New Nonpublic Schools in Florida

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Florida is widely recognized as a national leader in expanding school choice, with nonpublic schools as central players in our K–12 ecosystem. Through scholarship programs and education savings accounts, thousands of families have been empowered to select learning environments that best meet their children’s needs. Fueled by expanding scholarship

programs and shifting parental preferences, nonpublic school enrollment now exceeds 415,000 students, a rise of about 24 percent over five years.

Yet even as state policy encourages the growth of nonpublic education, another level of government quietly undermines it: local municipalities. Across Florida, zoning codes and land-use ordinances are creating

major, unintended impediments to opening or expanding nonpublic schools.

A 2024 Teach Coalition study found that nearly 90% of municipalities surveyed severely restrict where nonpublic schools can operate. Of the 35 cities examined, only four allowed nonpublic schools to open “by right,” without lengthy discretionary approvals. While public schools are often permitted freely across multiple districts, private and faith-based schools must navigate special hearings, ambiguous “compatibility” tests, or limitations to scarce, high-cost parcels.

While state policymakers have embraced school choice, local governments frequently—and often unknowingly—put up roadblocks that make it harder, more expensive, or even impossible to open new private and faith-based schools. This discrepancy may not stem from deliberate discrimination, yet its effects are clear: a patchwork of local barriers that throttle growth, drive up costs, and discourage innovation.

The Invisible Net of Zoning

Local zoning codes were never meant to suppress education. They exist to manage growth, mitigate negative externalities (traffic, noise, compatibility), and preserve neighborhood character. In some Florida cities, public schools can be located in virtually every zoning district, while nonpublic schools must obtain a special use permit, appear before planning boards, and survive a gauntlet of public hearings. The process often takes over a year and can cost more than \$150,000 in legal, engineering, and consultant fees before construction even begins. The uncertainty alone is enough to

deter many would-be operators from pursuing projects at all. The result is an arbitrary system that penalizes educational entrepreneurship and limits parental choice.

The Teach Coalition report highlights several municipalities where local ordinances have become especially restrictive.

- **Coral Springs, Coconut Creek, Delray Beach, Hialeah, Miami Gardens, North Miami:** Public schools may locate “by right” in certain districts, but nonpublic schools must apply for a special exception.
- **Margate:** Requires schools to be located on minimum lot sizes of 12 acres for elementary school, 20 acres for middle school and 45 acres for high school.
- **Palm Beach Gardens, Margate, Miramar, Pembroke Pines:** These cities lack any zoning districts where a nonpublic school can open without a special-use process. Every new school must engage in a multi-step application review under discretionary standards.

How Did We Get Here?

The motivations behind these local barriers are often not malevolent, but they are powerful.

- **NIMBY concerns:** Not In My Backyard! Homeowners frequently object to increased traffic, drop-off chaos, or noise.
- **Public school protectionism:** Some municipalities resist nonpublic growth out of fear it will reduce public school enrollment and local influence.
- **Code inertia:** Most zoning codes adopt

“special use” frameworks that allow discretionary review without having to rethink the baseline.

- **Disguised discretion:** Terms like “compatibility,” “scale,” and “neighborhood character” are subjective. They give planners and elected bodies cover to reject proposals without articulating clear, principled reasons.
- **Lack of legislative check:** Because local governments enjoy broad “home rule” authority, there is minimal state oversight concerning how they treat nonpublic educational uses.

Ultimately, these barriers emerge not necessarily from explicit hostility to private schooling, but from a default posture: that nonpublic education must be managed, not permitted. The consequence is that educational entrepreneurs invest resources navigating complex processes rather than in curriculum, staffing, or community outreach.

The Consequences for Florida Families

The impact of these local ordinances extends far beyond the developers who must navigate them. Parents searching for smaller class sizes, faith-based instruction, or specialized learning environments often find no openings nearby—not because communities lack interest, but because local codes have throttled school development. The cumulative effect is inequitable: families in high-demand suburban zones may find no proximate nonpublic option, be forced to travel long distances or forgo the choice altogether. Educators who wish to open new

campuses see too much upfront risk resulting in a stifled ability to serve. And for the state, it is an ironic contradiction: Florida invests heavily in education choice at the policy level, yet local ordinances quietly neutralize those investments by keeping potential schools off the map.

A Legislative Path Forward: Let Schools Build

The Florida Legislature has already acknowledged this tension in part. In 2024, House Bill 1285 sought to preempt some zoning barriers by allowing schools to open in existing community spaces such as churches and libraries. However, implementation has been inconsistent. Some municipalities narrowly interpret the statute, and others raise new objections under the guise of building or fire codes. The lesson is clear: partial measures are not enough.

What Florida needs now is a comprehensive legislative fix—one that protects local interests while ensuring statewide consistency. The Legislature should explicitly preempt local zoning codes that discriminate between public and nonpublic schools. Nonpublic schools should be deemed permissible “by right” in any district that allows other institutional or educational uses.

The law should also establish uniform procedural protections. Nonpublic schools should have access to the same streamlined permitting process as public schools. For smaller schools or start-ups under a certain size—where there are no legitimate traffic or noise concerns—an expedited administrative approval track would help remove needless delays. The state could also set baseline standards for parking, traffic, and

noise mitigation, preventing cities from imposing arbitrary local requirements that function as de facto bans.

Finally, the statute must include meaningful enforcement mechanisms. Schools that are improperly denied should have access to a clear, affordable path of appeal, with the right to recover legal costs if municipalities violate the preemption. These measures would not eliminate local input or safety oversight—they would simply prevent cities from using zoning as a tool to deny educational opportunity.

Zoning is a legitimate tool of local government for managing growth and preserving neighborhood character, but it was never meant to serve as a barrier to learning. Florida's commitment to school choice is a model for the nation. But choice without access is an illusion. The state's scholarship programs cannot succeed if local ordinances prevent schools from opening their doors. Families should not have to wait years—or move across county lines—to find a school that meets their needs.

Nonpublic schools are not intruders—they are partners in educating Florida's children. New schools create jobs, attract families, and strengthen communities. Removing unnecessary barriers is not just good education policy—it's good economic policy. Florida cannot proclaim itself a leader in school choice while allowing hundreds of local ordinances to cut off the very institutions that make that choice real. To put it plainly: if a public school can go somewhere, a nonpublic school should be able to under the same basic regulations. The lesson is clear: we need a broader, clearer, enforceable statutory regime.

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