
UNIFIED NEW ORLEANS PLAN (UNOP) DISTRICT 1 STEERING COMMITTEE

Central Business District, French Quarter, Lafayette Square, Picayune Place and Warehouse District

April 14, 2008

Founders

James R. Amdahl
Rebecca Conwell
Carol Greve
Michelle Kimball
Jim McNamara
Barbara Motley
Kim Rosenberg
Jack Stewart
Mark Wilson

Jacquelyn Clarkson
Council Member At-Large
City Hall, Room 2W50
1300 Perdido Street
New Orleans, LA 70112

Re: Amendments to the City Charter that will enable New Orleans to create a Master Plan for its Future Development that will have the Force of Law

Dear Council Member Clarkson:

For the purpose of reforming the ad hoc, dysfunctional land use planning process that has plagued this city for decades, in August 2006 the Bureau of Governmental Research (BGR) published "Planning for a New Era: Proposed Charter Changes for Land Use Decisions Making in New Orleans." This laudatory, ground-breaking effort established the precedent, as well as the tone, for the amendments to the City Charter that we are attaching to this letter.

Because the BGR charter amendments failed to receive the support of important neighborhood leaders and several knowledgeable attorneys, the decision was made to massage the Bureau's draft in order to present it in a form that could gather increased community support. Working on behalf of Smart Growth for Louisiana, a nonprofit corporation dedicated to reforming land use planning, attorney William E. Borah spoke to numerous urban planners and land use attorneys from across the country, soliciting their input on different aspects of the BGR amendments as well as the enclosed Smart Growth amendments. Particularly helpful were Robert L. Zoeckler, former Atlanta city attorney now actively engaged in land use practice, representing clients from the private as well as the public sector, and Daniel R. Mandelker, Stamper Professor of Law, Washington University in St. Louis, who completed an analysis of the New Orleans planning process in 2002 and was a consultant to the BGR in their excellent charter amendment effort. We hope that the amendments to the City Charter that are attached to this memorandum will receive community support, be adopted by the City Council, and eventually be approved by the citizens of New Orleans in a general election.

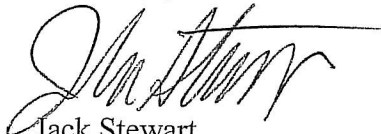
The purpose of these amendments to the City Charter, as well as to the previous BGR effort, is to reform the land use planning process of New Orleans to insure that (1) a Master Plan will be created for the community that will have the force of law – in other words, that at last the city will have a plan for its future development that public officials as well as private citizens will be required to follow; (2) that all land use regulations, including the zoning ordinance, and capital expenditures will be required to be consistent with the plan; and (3) that all neighborhoods will be legally structured into the planning process.

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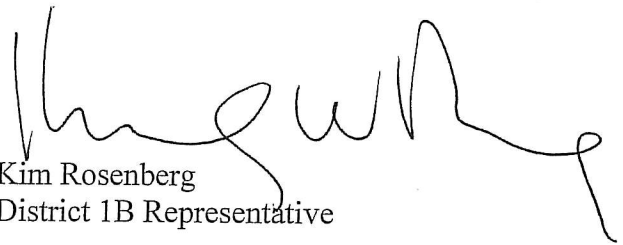
The attached amendments to the City Charter list the Articles and Sections of the current Home Rule Charter that define the city's current land use planning process. The strikethroughs reflect the language that was discarded; the underlined text indicates the materials that were added. Also included with the Charter amendments is "A Citizen's Guide to Land Use Reform: Summary of Smart Growth Amendments to Home Rule Charter of New Orleans" that should assist public officials, as well as private citizens, to better understand the contents of the Charter amendments.

The organizations listed below respectfully request that you review the enclosed materials and lend your support to the effort to change the land use planning process of New Orleans. With work soon to begin on a Master Plan and a new Zoning Ordinance for the city, we now have the opportunity to create a planning process to go along with this serious undertaking that can gain the respect of citizens – both here and across the nation. Shame on all of us if we do not take advantage of this opportunity.

Sincerely yours,



Jack Stewart
District 1A Representative



Kim Rosenberg
District 1B Representative

March 3, 2008

A Citizen's Guide to Land Use Reform: Summary of Smart Growth Amendments to Home Rule Charter of New Orleans

City Council given legislative authority to adopt or amend the Master Plan and the Comprehensive Zoning ordinance. Art. III, Sec. 3-112(5)(c).

City Planning Commission shall consist of nine members to serve for terms of four years. Two members of the Planning Commission shall be nominated by the Mayor, two by the Council members at large, and five by each Council district member. All Commission members shall be confirmed by ordinance of the City Council and can serve no more than two terms. Art. V, Chap. 4, Sec. 5-401.

City Planning Commission required to prepare a 20-year Master Plan for the physical development of the city. Elements of the Master Plan are defined . *Id.*, Sec. 5-402(1).

The Land Use Element of the Master Plan shall consist of text and a map setting forth categories of allowable land use issues and density for each of the city's thirteen Planning Districts. *Id.*

The Land Use Element of the Master Plan provides the city with the authority to do form based zoning – traditional neighborhood development, transit oriented development, smartcodes, etc. *Id.*, Sec. 5-402(3)(c).

City Planning Commission shall prepare and recommend to the City Council a zoning ordinance and zoning map for the purpose of implementing the Master Plan. Both the ordinance and the map are required to be consistent with the Plan. *Id.*

The city's capital improvement plan and its capital budget shall be consistent with the Master Plan. *Id.*, Sec. 5-402(4).

In preparing the Master Plan, the City Planning Commission must hold at least one public hearing in each of the 13 Planning District to solicit the opinions of citizens that live and work in that District and a public hearing to solicit the opinion of citizens from throughout the community. *Id.*, Sec. 5-404(1).

The City Planning Commission shall forward the Master Plan to the City Council for adoption. Any modifications of the Plan by the Council before adoption shall be referred back to the Planning Commission for a public hearing and comment. *Id.*

Following the adoption of the Master Plan, all land use actions by any government body shall be consistent with the Plan, as well as amendments to the Plan. *Id.*, Sec. 5-404 (3)(a).

The Land Use Element of the Master Plan and the Comprehensive Zoning Ordinance shall each contain a table or matrix specifying which zoning districts in the Zoning Ordinance are consistent with each of the land use categories in the Land Use Element of the Master Plan. *Id.*, Sec. 5-404(3)(b).

All land use actions not consistent with the Master Plan, or amendments to the Plan, shall be null and void. *Id.*, Sec. 5-404(3)(d).

At least every five years, but not more often than two years, the City Planning Commission shall comprehensively review the Master Plan and shall determine whether the Plan requires amendment or comprehensive revision. If it is determined that amendment or comprehensive revision is required, the Planning Commission may take appropriate action. *Id.*, Sec. 504(4).

The City Planning Commission may amend the Master Plan, including the Land Use Element and Land Use Map, following application effecting a particular parcel or parcels of property, provided all such amendments shall be considered on a regular schedule which shall allow all such amendments to be considered at one time and no more than twice per calendar year. The City Planning Commission shall hold at least one public hearing in the Planning District where the effected parcel or parcels of property are located to solicit the opinion of citizens that work or live in that district and a public hearing to solicit the opinions of citizens from throughout the community. *Id.*, Sec. 504 (5).

Any zoning ordinance, or amendment to the zoning ordinance, that is adopted by the City Council that is not consistent with the Master Plan shall be null and void. *Id.*, Sec. 5-406 (1).

Simultaneous with any amendment to the Master Plan, the City Planning Commission shall review the Comprehensive Zoning Ordinance, after one or more public hearings, to determine whether the ordinance requires revision and amendment. *Id.*, Sec. 5-406(2).

The City Planning Commission shall hear and decide all applications for conditional uses authorized by the Comprehensive Zoning Ordinance. *Id.*, Sec. 5-406(3).

The Board of Zoning Adjustments shall consist of five members who shall serve for terms of four years. The Board members shall be nominated by each Council District member and confirmed by ordinance of the City Council and shall serve no more than two terms. *Id.*, Sec. 5-408(1).

City is required to create and support a system for organized and effective neighborhood participation in land use decisions and other issues that effect quality of life. Art. V, Chap. 10, Sec. 10-101.

City Planning Commission shall identify and map the number, boundaries, and names of each neighborhood in the city, listing each neighborhood in its respective Planning District or Districts. *Id.*, Sec. 10-102.

City is required to establish a Neighborhood Participation Office under the supervision of the City Planning Commission. *Id.*, Sec. 10-103.

Neighborhood Participation Office shall provide technical assistance and guidance to citizens and neighborhood organizations so that they will be in a better position to participate in government decisions in their respective Planning Districts. *Id.*, Sec. 10-103 (2).

Neighborhood Participation Office authorized to make recommendations concerning a particular action, policy, or other matters to any city agency on any topic affecting the livability, safety, and economic vitality of neighborhoods. *Id.*, Sec. 10-104(1).

Neighborhood Planning Office authorized to make recommendations to the City Planning Commission in the formulation, revision, or amendment of the Master Plan. *Id.*, Sec. 10-104(3).

Neighborhood Planning Office authorized to make recommendations to the City Planning Commission concerning District, neighborhood, and target recovery plans that could be adopted by the Planning Commission as part of the Master Plan. *Id.*, Sec. 10-104(4).

For the purposes of clarifying Articles, Chapters and Sections of the Home Rule Charter amendments, eight terms relating to land use planning were added and defined. Art. V, Chap. 11.

March 3, 2008

PROPOSED CHARTER CHANGES – HOME RULE CHARTER OF THE CITY OF NEW ORLEANS VS. CHANGES MADE BY SMART GROWTH FOR LOUISIANA (Additions underlined, deletions struck through)

**ARTICLE III
THE COUNCIL**

Section 3-101. Legislative Powers.

(1) All legislative powers of the City shall be vested in the Council and exercised by it in the manner and subject to the limitations hereinafter set forth.

Section 3-112. Introduction, Consideration, and Passage of Ordinances.

(5) Proposed ordinances on any of the following specified subjects can be adopted only at a regular meeting of the Council and shall not be adopted until at least twenty calendar days have transpired beginning on the day after the date of introduction of the ordinance and not until a notice of the introduction of such proposed ordinance shall have been published in the official journal of the City not less than seven calendar days nor more than fourteen calendar days after the introduction thereof, which notice shall state the substance of the proposed ordinance and the date of the meeting at which the Council shall begin its consideration thereof:

(c) The adoption or amendment of the Master Plan and the Comprehensive Zoning Ordinance, including Land Use Element map and Zoning map amendments. ~~Zoning or rezoning, or changing the zoning districts or classifications.~~

**ARTICLE V
EXECUTIVE BRANCH - UNATTACHED BOARDS AND COMMISSIONS**

CHAPTER 4.

CITY PLANNING COMMISSION

Section 5-401. Creation and Composition

Section 5-402. Functions

Section 5-403. Director and Staff

Section 5-404. Master Plan ~~and Subdivision Regulations~~

Section 5-405. Planned Street Lines and the Official Map

Section 5-406. Zoning Ordinance

~~**Section 5-407. Public Notice and Public Hearing**~~

~~**Section 5-407. 5-408. Approval of the Commission.**~~

~~**Section 5-408. 5-409. Board of Zoning Adjustments.**~~

~~**Section 5-409. 5-410. Other Functions**~~

Section 5-401. Creation and Composition.

The City Planning Commission shall consist of nine members who are electors of and domiciled in the City and shall serve for terms of four years and until a successor for each is nominated and confirmed. The first two Commission members shall be nominated by the Mayor and confirmed by ordinance of the Council. The seven remaining Commission members shall be nominated by each Council member, and confirmed by ordinance of the Council, on a rotating basis beginning with the District 1 Council member. This nomination cycle shall repeat itself as vacancies occur. Commission members shall serve no more than two terms, and vacancies on the Commission shall be filled within a 90-day period. ~~, appointed by the Mayor with the approval of the Council for terms of four nine years, staggered so that the term of one member shall expire each year.~~

Section 5-402. Functions.

The City Planning Commission shall:

(1) Prepare and recommend to the Council a twenty year Master Plan for the physical development of the City consistent with the requirements of Section 5-404. The Master Plan shall consist of a statement of development goals, objectives, and policies for the physical growth and development of the City, and which shall include maps and a text setting forth principles, standards, and proposals. The Master Plan shall include and be made up of the following elements: Vision, Goals, and Policy; Land Use; Transportation; Housing and Human Services; Historic Preservation; Community Facilities and Infrastructure; Economic Development; Parks, Recreation, and Open Space; Arts and Cultural Management; Tourism Management; Environmental Quality and Energy; and Natural Hazards.. The elements are to be interrelated with each other and shall provide the overall guidance for city policy and priorities. The Land Use element shall consist of text setting forth land use issues and policies, and a Land Use map setting forth categories of allowable uses and density, for each of the City's thirteen Planning Districts as defined in the City Planning Commission, "New Orleans Land Use Plan" (April 1999). The entire area of the City shall be addressed within the Master Plan, as well as those land areas outside of the Parish of Orleans under the control or ownership of the City.

~~(1) Prepare, adopt, amend and modify a long term Master Plan for the physical development of the City, which shall consist of a statement of development goals, objectives, and policies and shall show the general location, extent, and character of streets, bridges, waterways, and other public ways; parks and open spaces; public buildings and structures; public utilities, and terminals, whether public or privately owned; public housing, slum clearance, and redevelopment projects and areas; and any other physical public facility, with due regard to the aesthetic characteristics of all public~~

(2) Prepare, adopt, amend and modify regulations governing the subdivision of land, including platting and replatting, which regulations shall provide for the proper arrangement of streets and public utilities; open spaces for lights, air and recreational areas; space for vehicular parking; the sizes and shapes of lots in order to avoid congestions of population and to provide for the amenities of human habitation; and the manner and extent to which streets shall be paved and public utilities installed in such subdivisions, consistent with the provisions of this Charter.

(3) Prepare and recommend to the Council, all to be consistent with the Master Plan:

(a) Plats, together with revisions and amendments thereof, showing the exact location of lines of recommended new, extended, widened, or narrowed streets, and the estimated time within which the land needed for future street development as shown on the plat.

(b) The Official Map of the City and amendments thereto, upon which shall be shown all existing and established streets, recommended street lines, all streets or street lines located on final or recorded plats of subdivisions, and the location of existing or planned parks and other open spaces. Street locations on final or recorded plats of subdivisions shall constitute amendments to the Official Map and shall be placed thereon.

(c) A zoning ordinance and revisions and amendments thereof for the purpose of promoting the public health, safety, aesthetics, and general welfare of the City, and implementing the Master Plan, which ordinance may contain regulations with respect to the location height, bulk, size of buildings and other structures; the size of yards, courts and other open spaces; the density of population; and the use of buildings, structure and land for trade, industry, business, residence, or other purposes. The zoning ordinance shall include an official Zoning Map, and the ordinance and the map may be periodically amended by the City Council provided any amendments are consistent with the Master Plan in accordance with Section 5-404(3). The text, diagrams and maps in the Land Use Element of the Master Plan that address the location and extent of land uses, and the zoning ordinance that implements those provisions, may also express community intentions regarding urban form and design. These expressions

may differentiate neighborhoods, districts, and corridors, provide for a mixture of land uses and building types within each, and provide specific measures for regulating relationships between buildings, and between buildings and outdoor public areas, including streets, sidewalks, and other right of ways.

(d) Plans for the clearance of slum areas, public housing developments and the rehabilitation or redevelopment of blighted areas, which shall be consistent with the Master Plan.

(e) Plans for the replanning, improvement, and reconstruction of neighborhood and community centers and of areas or districts destroyed or seriously damaged by fire, earthquake, hurricane, flood or other disaster, which shall be consistent with the Master Plan.

(f) Such other studies as may be requested or directed by the Council.

(4) Prepare the capital improvement plan program and assist the Chief Administrative Officer in the preparation of the annual capital budget. The capital improvement plan and the capital budget shall be consistent with the Master Plan.

(5) Prepare such studies as may be requested by the Mayor.

Section 5-403. Director and Staff

The City Planning Commission may appoint a director who shall serve at its pleasure. The Director shall be the executive officer of the Commission and shall be responsible for the supervision of the staff. The Commission may, subject to the provisions of this Charter, appoint such employees as it may deem necessary and may contract with planning experts, engineers, architects and other consultants for such services as it may require.

Section 5-404. Master Plan and ~~Subdivision Regulations~~

(1) Preparation of the Master Plan. The City Planning Commission shall prepare and, subject to the requirements set forth in Section 5-404 (4), modify or extend the Master Plan. Preparation, modification or extension may be by single resolution or by successive resolutions relating to parts of the Master Plan corresponding to the Thirteen Planning Districts, major geographical areas or functional divisions of the subject matter. The Commission shall hold at least one public hearing in each Planning District to solicit the opinions of citizens that live or work in that district, and a public hearing to solicit the opinions of citizens from throughout the community prior to completion of the Master Plan and modifications or extensions thereof. Each hearing shall be duly advertised in a newspaper of general circulation at least fifteen (15) but not more than (45) forty-five days prior to each hearing. Upon completion of said public hearings and completion of the Master Plan or modifications or extensions, and following adoption of a resolution

authorizing same, the Commission shall forward the Master Plan to the City Council. Within 30 days of its receipt the Council shall adopt the Master Plan, or shall adopt it with modifications. Prior to adopting any modifications, the Council shall refer them to the Commission for public hearing and comment. Following the adoption of that part of the Master Plan relating to the Major Street Plan, the Commission shall by resolution adopt and may so modify or extend regulations governing the subdivision of land.

~~(1) Adoption. The Commission shall adopt and may modify or extend the Master Plan at any time. The Master Plan shall consist of statements regarding development goals, objectives, and policies and shall include a diagram and a text setting forth principles, standards, and proposals. The entire area of the City shall be addressed within the Plan, as well as those land areas outside of the Parish of Orleans under the control or ownership of the City. Adoption, modification or extension may be by single resolution or by successive resolutions relating to parts of the Master Plan corresponding to major geographical sections or functional divisions of the subject matter. Following the adoption of that part of the Master Plan relating to the Major Street Plan, the Commission shall by resolution adopt and may so modify or extend regulations governing the subdivision of land.~~

(2) Publication and Filing. Upon adoption by the Council, certified copies of the plan and regulations and the ordinances resolutions by which they were adopted shall be filed with the Clerk of Council and with such offices as may be required by applicable state or municipal law. Regulations governing the subdivision of land shall be published once after adoption in the official journal.

(3) Legal Effects of Master Plan

(a) Following adoption of the Master Plan, no public project or facility and no public utility, whether publicly or privately owned, shall be authorized or constructed except in conformity with the adopted Master Plan. Proposals for the authorization or construction of such projects, facilities or public utilities shall be submitted to the Commission for certification that it conforms with the adopted Master Plan as to location, character and extent. No final action with respect thereto shall be taken by the Council, by any other governing authority, by any officer, department or board, or by any person concerned therewith, except in conformity with the certification of the Commission that the proposed action is in conformity with the adopted Master Plan.

(b) The Master Plan prepared by the Commission and adopted by the Council shall include as a part of the Land Use Element a table or matrix specifying which zoning districts in the Comprehensive Zoning Ordinance are consistent with each of the land use categories included in the Land Use Element of the Master Plan. The Comprehensive Zoning Ordinance shall also be immediately amended to include said table or matrix. Said table or matrix shall be amended or updated as required to accommodate

amendments to the Comprehensive Zoning Ordinance or Master Plan.

(c) Following adoption of the Master Plan, all Land Use Actions by any government body shall be consistent with the Master Plan and any amendments to the Plan.

(d) Any Land Use Action not consistent with the Master Plan and any amendments to the Plan shall be null and void. A Land Use Action is consistent with the Master Plan if the Land Use Action:

(1) is compatible with the proposed future land uses set forth in the table or matrix identified in § 5-404(3)(b) and all applicable land use policies set forth in the Land Use Element of the Master Plan; and

(2) furthers the goals, policies, and guidelines, including design guidelines, that are contained in the Master Plan.

~~(3) Legal Effect of Master Plan. After the adopted Master Plan shall have been so filed and published, no public project or facility and no public utility, whether publicly or privately owned, shall be authorized or constructed except in conformity with the adopted Plan. Proposals for the authorization or construction of such projects, facilities or public utilities shall be submitted to the Commission for its approval for conformity with the adopted Plan as to location, character and extent. No final action with respect thereto shall be taken by the Council, by any other governing authority, by any officer, department or board, or by any person concerned therewith, except in conformity with the approval of the Commission certifying that the proposed action is in conformity with the adopted Master Plan.~~

(4) Mandatory review. At least once every five years, but not more often than once every two years, and at any time in response to a natural disaster or other declared emergency, the Commission shall comprehensively review the Master Plan and shall determine, after one or more public hearings held within each Planning District, whether the Plan requires amendment or comprehensive revision. If amendment or comprehensive revision is required after the comprehensive review, the Commission shall prepare and recommend amendments or comprehensive revision and readopt the Plan in accordance with the procedures of section 5-404 (1). Upon adoption, the Commission shall forward the amendment or revision to the City Council. Within 45 days of its receipt the Council shall adopt the amendment or revision or shall adopt it with modifications. Prior to adopting any modifications, the Council shall refer them to the Commission for comment following public hearing.

~~(4) Mandatory Review. At least once every ten years, the Commission shall review the Master Plan and shall determine, after one or more public hearings, whether the Plan requires amendment. If any amendment of the Plan is require, the Commission shall modify the Plan in accordance with the procedures of this Section.~~

(5) Amendment of Plan. The Planning Commission may amend the Master Plan, including the Land Use Element and the Land Use map, following application effecting a particular parcel or parcels of property, provided that all such amendments shall be considered on a regular schedule which shall allow all such amendments to be considered at one time and no more than twice per calendar year. The Commission shall hold at least one public hearing in the Planning District where the effected parcel or parcels of property are located to solicit the opinions of citizens that live or work in that district, and a public hearing to solicit the opinions of citizens from throughout the community prior to amendment of the Master Plan. Each hearing shall be duly advertised in a newspaper of general circulation at least fifteen (15) but not more than (45) forty-five days prior to each hearing. Upon completion of said public hearings and completion of the amendments to the Master Plan, and following adoption of a resolution authorizing same, the amendments shall be forwarded to the City Council. Within 30 days of its receipt the Council shall adopt the amendments to the Master Plan, or shall adopt them with modifications

(6) ~~(5)~~ Legal Effect of Subdivision Regulations. All proposed subdivisions of land to be made after the adoption of the regulations governing subdivision of land shall be submitted to the Commission for its approval for conformity with the subdivision regulations, and Master Plan, and no such proposed subdivision shall be made or recorded unless approved by the Commission. Approval of a plat of a subdivision shall not be deemed an acceptance by the City of any street or other open space shown on the plat.

Section 5-405. Planned Street Lines and the Official Map.

The Council, upon recommendation of the Commission, and consistent with the Master Plan, may by ordinance do the following:

(1) Adoption. The Council, upon the recommendation of the Commission, may by ordinance adopt:

(a) Plats showing the exact location of planned or mapped lines of street widening and extensions or of future streets.

(b) An Official Map showing all public streets then existing and established by law; all planned streets or street lines previously adopted under this Section; all streets or street lines as located on final or recorded plats of subdivisions as previously approved by the Commission; and all existing or planned parks and other public open spaces.

(2) Notice to Owner of record. No plat showing the location of a planned or mapped street shall be adopted before notice shall have been sent by registered mail to the owners of record of the land on or abutting the future street lines designated upon the plat.

(3) Legal Effect

(a) Upon the adoption of any plat showing the location of a planned or mapped street, the owners of the property within the lines of such planned or mapped street shall for the period specified in the ordinance be prohibited from erecting any structure within such lines. The owner of any property so affected shall be entitled to appeal to the Board of Zoning Adjustments under the same procedure described for appeals in zoning cases.

(b) After the adoption of the Official Map or any plat showing the lines of planned or mapped streets, no change in any street shall be made by the Council until such proposed change shall have been submitted to the Commission for its approval or disapproval for conformity with the Official Map. Pending the adoption of the official Map, the Council shall not vacate, narrow, or extend any existing street without having secured the approval of the Commission thereon.

(c) The adoption of any plat showing the location of a planned or mapped street or the placing of any street or street line on the Official Map shall not, in and of itself, constitute or be deemed to constitute the opening or establishment of any street nor the taking or acceptance of any land for street purposes.

(4) Amendment of Official Map. New streets and street locations on recorded plats of subdivisions as approved by the commission or on plats adopted by the Council shall be forthwith placed upon the Official Map as additions or modifications thereto, when the Council accepts the dedication of the streets and street locations shown thereon. Other amendments to the Official Map may be made by the Council at any time after having secured the advice of the Commission.

Section 5-406. Zoning Ordinance.

(1) Except when adopted pursuant to a zoning plan proposed and recommended by the Commission, the City Council shall refer all proposed zoning ordinances and amendments to the Commission for its recommendations. Any zoning ordinance or amendments adopted by the Council following recommendations by the Commission that are not consistent with the Master Plan shall be null and void as provided by Sec. 5-404 (3) (c).

(2) Simultaneous with any amendment to the Master Plan, the Commission shall review the Comprehensive Zoning Law and shall determine, after one or more public hearings, whether the law requires revision and amendment. ~~Mandatory Review. At least every ten years, immediately following the review of the Master Plan,~~

(3) The Commission shall hear and decide all applications for conditional uses authorized by the Comprehensive Zoning Ordinance under criteria and procedures to be provided in the Comprehensive Zoning Ordinance.

(4) The City shall make adequate appropriations to the Commission to implement the mandate of this section.

~~Section 5-407. Public Notice and Public Hearing~~

~~Prior to making recommendations on any zoning ordinance or amendment thereto, prior to adopting regulations governing the subdivision of land, and prior to adopting the Master Plan or part thereof, the Commission shall hold a public hearing thereon comply with the requirements of Section 10-105 and the ordinances issued pursuant thereon at which interested persons shall be afforded a reasonable opportunity to be heard. Notice of the time and place of the hearing shall be published at least three times in the official journal.~~

~~Section 5-407. 5-408. Approval of the Commission.~~

When under this Charter the approval or certification of the Commission is required of any proposal, the approval or certification shall be by the affirmative vote of a majority of the members of the Commission. Should the Commission fail to act within sixty days of the submission of the proposal to the Director of the Commission, its approval or certification shall be presumed unless the person, governing authority, office, department, board or commission submitting the proposal shall agree to a longer period of time for consideration by the Commission. In the case of amendments to the zoning ordinance, the Commission shall report its findings within a reasonable period of time, to be fixed by ordinance, without a presumptive approval being granted. (1)

~~(2) Should the Commission disapprove any proposal involving the expenditure of public moneys, such disapproval may be overruled by an affirmative vote of two thirds of the membership of the affected governing authority paying the preponderance of the cost involved. Any disapproval of a proposal for a public housing project and any approval or disapproval of any proposal not involving the expenditures of public moneys may be overruled by the affirmative vote of two thirds of all members of the Council.~~

~~Section 5-408. 5-409. Board of Zoning Adjustments.~~

(1) Composition. There shall be attached to the Commission a Board of Zoning Adjustments to consist of five members who are electors of and domiciled in the City and shall serve for terms of four years and until a successor for each is nominated and confirmed. The Board members shall be nominated by each District Council member, and confirmed by ordinance of the Council, on a rotating basis beginning with the District 1 Council member. This nomination cycle shall repeat itself as vacancies occur. Board members shall serve no more than two terms, and vacancies on the Board shall be

~~filled within a 90-day period. seven members who shall be domiciled in and electors of the City, appointed by the Mayor with the approval of the Council for five year terms, staggered so that the term of one or two members shall expire each year. Neither the Director nor any member of the Commission shall be a member of the Board. The Mayor may, by Executive Order approved by the Council in accordance with the procedures established in Section 9-201 (2) of this Charter, reassign or attach the functions of the Board to another department or board within the Executive Branch.~~

(2) Functions. The Board shall:

- (a) Hear and determine appeals from applicants who have been reused building permits because of a violation or conflict with the zoning ordinance or official map of the City.
- (b) Hear and decide appeals where error is alleged in any order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance of the City.
- (c) Have the power to permit ~~exceptions to or~~ variations from the zoning regulations in classes of cases or situations and in accordance with the principles, conditions, and procedures specified in and subject to the limitations imposed by the zoning ordinances of the City.

Section 5-409. ~~5-410.~~ Other Functions

Functions not specifically assigned to the Commission by this chapter may be assigned to the Commission or reassigned by an Executive Order of the mayor approved by the Council in accordance with the procedures established in Section 9-201 (2) of this Charter.

PROPOSED CHAPTERS 10 AND 11 CHANGES – BGR DRAFT VS. CHANGES MADE BY SMART GROWTH FOR LOUISIANA (Additions underlined, deletions struck through)

CHAPTER 10. NEIGHBORHOOD PARTICIPATION

Section 10-101. Purpose.

It is in the public interest for the City of New Orleans to create and support an organized program of neighborhood planning. To this end, the City shall create a system for organized and effective neighborhood participation in land use decisions and other issues that affect quality of life. ~~It is in the public interest for the City of New Orleans to create and support an organized program of neighborhood planning. To this end, the City shall create a system for organized and effective neighborhood participation in land use decisions and other issues that affect quality of life. The City shall create a system for organized and effective neighborhood participation in land use decisions and other issues~~

~~that affect quality of life. It shall put neighborhoods and citizens of New Orleans at the beginning of the land use decisions making process, rather than the end. It shall set out the basis for City recognition of neighborhood organizations and define their responsibilities, in accordance with this Chapter and ordinances implementing this Chapter.~~

Section 10-102. Identification and Mapping of Neighborhoods.

~~Within 6-18 months of the adoption of this Chapter, the City Planning Commission shall identify and map the number, boundaries, and names of each neighborhood in the City through a publicized, participatory, and neighborhood-based process using criteria adopted by the Commission. Each identified neighborhood shall be located and listed in their respective Planning District or Districts. The Commission shall adopt the neighborhood identification map as an element of the Master Plan.~~

Section 10-103. Establishment and Functions of the Neighborhood Participation Office.

(1) There is hereby established and created a Neighborhood Participation Office under the supervision of the City Planning Commission. It shall consist of a Director, who shall be appointed by and serve at the pleasure of the Commission, and such other staff as the Commission may deem necessary. The City shall make adequate appropriations to the Neighborhood Participation Office to enable it to carry out its functions.

~~(2) The Neighborhood Participation Office shall officially recognize a neighborhood organization for each neighborhood identified under Section 10-102 under uniform criteria it shall adopt after public notice and comment.~~

(2) The Neighborhood Participation Office shall:

(a) Provide technical assistance and guidance to citizens to aid them in forming neighborhood organizations so that they will be in a better position to participate in governmental decisions in their respective Planning District. ~~to help residents from neighborhood organizations that can qualify for recognition.~~

(b) Provide technical assistance and guidance to existing neighborhood organizations. ~~Recognized Neighborhood Organizations in the production of Neighborhood Plans.~~

(c) Provide such other technical assistance, as needed, to further the purposes of this chapter and encourage broad-based public participation.

~~(d) Assist in the organization of Planning Districts consisting of two or more recognized neighborhoods.~~

Section 10-104. Functions of Recognized Neighborhood Organizations

Neighborhood organizations ~~A recognized~~ may engage in, but are is not limited to, the following:

(1) Make recommendations concerning a particular action, policy, or other matter to any City agency on any topic affecting the livability, safety, and economic vitality of neighborhoods, including but not limited to: land use, master planning, zoning, urban design, historic preservation, housing, community facilities, human resources, social and recreational programs, traffic and transportation, environmental quality and sanitation, and public safety.

(2) Make recommendations concerning any Land development Regulations or Land use Action affecting any neighborhood.

(3) Make recommendations to the Commission in the formulation, revision, or amendment of the Master Plan. ~~Advise and assist the Commission in the formulation of the Master Plan and develop and propose Neighborhood Plans for adoption by the Commission as part of the Master Plan under rules and guidelines adopted by the Commission.~~

(4) Make recommendations to the Commission concerning district, neighborhood, and target recovery plans that could be adopted by the Commission as part of the Master Plan.

~~Section 10-105. Review of Land Development Regulations and Land Use Actions.~~

~~(1) The Council shall provide by ordinance for the review of and comment on Land Development regulations and Land Use Actions by affected Recognized Neighborhood Organizations. The ordinance shall include the requirements contained in this section and such other requirements the Council considers necessary to carry out the purposes of this Chapter.~~

~~(2) The ordinance shall require government bodies to give notice to recognized Neighborhood Organizations of any application for the approval o a proposed Land use Action, any Master Plan, and any proposed adoption or amendment of a Land Development Regulation that affects the neighborhood of any such Organization.~~

~~(3) The ordinance shall also provide that the recognized Neighborhood Organization may comment on a matter referred to it. The applicant or Government Body giving notice shall give great weight to any relevant comments of the Organization. Great weight requires acknowledgement of the Recognized Neighborhood Organization as the source of the recommendations and explicit reference to each of the Organizations issues and concerns. In its application, or in its decision or report on the Land Development Regulation or Land Use Action, the applicant or Government Body shall~~

~~state with particularity and precision the reasons why it does or does not accept the recommendation of the Recognized Neighborhood Organization.~~

CHAPTER 11. DEFINITIONS.

For purposes of this Article:

“Government Body” means the City Council, the City Planning Commission, the Board of Zoning Adjustments, and any Administrative authority of the City or attached or unattached board or commission and any of their officers or employees authorized to make a decision concerning a Land Use Action.

“Land Development Regulation” means any zoning, subdivision, impact fee, site plan, official map, floodplain, wetlands or storm water regulation, or any other government regulation that affects the use, density, or intensity of land.

“Land Use Action” means the preliminary or final approval of a zoning map amendment, a zoning ordinance text change, subdivision plat, site plan, planned unit development, or conditional use; the granting of a variance, adoption of a development agreement, or issuance of a certificate of appropriateness; a decision by the City or any of its administrative authorities to construct a capital improvement, acquire land for community facilities, including transportation facilities, or for redevelopment. Approval as used in this paragraph includes approval subject to conditions.

“Land Use Map” means Proposed General Land Use Maps contained in the New Orleans Land Use Plan, which is the Land Use Element of the Master Plan.

“Master Plan” means the adopted official statement of a legislative body of a local government – the New Orleans City Council -- that sets forth (in words, maps, illustrations, and/or tables) goals, policies, and guidelines intended to direct the present and future physical, social, and economic development that occurs within its planning jurisdiction and that includes a unified physical design for the public and private development of land and water.

“Neighborhood Planning” is a way to tailor the Master Plan and implement it in districts, neighborhoods, and adopted growth targets. It is also a means by which neighborhood organizations may participate in planning for the future of their area within the context of the city’s Master Plan.

“Zoning Map” means the Official Zoning District Maps associated with the New Orleans Comprehensive Zoning Ordinance.

“Official Map of the City” means the Major Street Plan of the City of New Orleans, which forms part of the Transportation Element of the Master Plan.