PLANNING FOR A NEW ERA

Proposed Charter Changes for Land Use Decision Making in New Orleans

AUGUST 2006

In October 2003, the Bureau of Governmental Research released a widely disseminated publication called *Runaway Discretion: Land Use Decision Making in New Orleans*. It identified factors that have contributed to the malaise and discontent in the area of land use decisions, and set forth possible solutions for consideration by elected officials and the public. While the report generated significant interest at the grassroots level, its recommendations were never taken up by elected officials.

Since Katrina, these recommendations have taken on new life as part of the intense dialogue surrounding planning in New Orleans. The citizen-led Land Use Subcommittee of the Bring New Orleans Back Commission specifically included in its final recommendations the implementation of the reforms called for in *Runaway Discretion*. The Land Use Subcommittee asked BGR to draft charter amendments to implement the recommendations in *Runaway Discretion*. This report sets forth and explains those amendments. In addition, it summarizes the findings and recommendations in *Runaway Discretion* and outlines the process that would be needed to adopt the charter amendments.

The confusion that has reigned lately in the arena of planning has only accentuated the need for reforms.

**BACKGROUND**

*Runaway Discretion* analyzed the sources of, and proposed solutions to, the dysfunctional land use decision making process in New Orleans. The report found several interrelated problems, including two that could best be addressed through charter amendments:

- **Land use decisions do not emerge from a fair, rational, or consistent process. City Council holds unbridled discretion in important areas.**

- **Neighborhoods lack an adequate voice in their future.**

**Unbridled Discretion**

Much of the criticism relating to land use decision making centers on the role of City Council. At the root of the problem are two “Ds”: deference and discretion. Critics charge that City Council is vested with too much discretion and misuses it, routinely overruling recommendations made by the City Planning Commission and its staff. Power is further concentrated in the hands of individual council members by a long-standing tradition of deference – the practice of voting with the council member whose district contains the matter at hand.

City Council’s discretion comes into play (and under fire) primarily in two areas: conditional uses and zoning map changes. Conditional uses are uses that are allowable in a district only upon a determination that the external effects of the use on adjoining properties can be mitigated through the City’s imposition of standards or conditions. Applications for conditional uses pass through the City Planning Commission for recommendations, then move to the City Council, which can approve, deny, or modify each proposal.

Zoning map changes are typically
sought to allow a more intensive use for a specific site or area. Some of the changes sought are actually illegal spot zonings, or site-specific exceptions to an area’s zoning classification. Like conditional use applications, applications for zoning map changes require expertise and professionalism of the sort normally contained in the City Planning staff. But, like conditional uses, zoning map changes are ultimately up to the City Council.

Some flexibility is necessary in land use decision making. But wide discretion, combined with a tradition of deference to the council member whose district contains a proposal, establishes council members as power brokers in their districts. It subverts consensus- and standard-driven planning decisions by placing ultimate control with – and political pressure on – one person. The result, ad hoc decision making, threatens the competitive atmosphere for businesses by subjecting the ground rules to political whimsy. Moreover, it threatens the residential base by opening the way for incompatible land uses in residential areas.

**Neighborhood Participation**

Citizens’ frustration with the disorganized post-Katrina planning processes is symptomatic of a problem that long predated the current crisis. There is no official, organized system for meaningful neighborhood participation in planning or other land-use decisions. Citizens often find that decisions have been made behind the scenes before they even learn of a land use proposal. This undermines citizen engagement and heightens a perception of “corruption” in City government.

In every city, but particularly New Orleans, the neighborhood is the primary unit of any worthy planning process. Whether a city is crafting a master plan or passing on a conditional use for a particular parcel, it should put neighborhoods at the beginning of the land use decision making process.

### A CALL FOR REFORM

In *Runaway Discretion*, BGR proposed a series of comprehensive reforms to create a more predictable and citizen-responsive process. Those involving charter amendments are described in this section. The full report and recommendations can be found at [www.bgr.org](http://www.bgr.org).

- **Give the Master Plan the Force of Law**
  One factor contributing to City Council’s excessive discretion is the lack of a binding nexus between the City’s Master Plan and its actions. While the current charter calls for the City Planning Commission to prepare a master plan, it does not give it any legal effect, leaving the City Council and other governmental bodies free to ignore it.

  In *Runaway Discretion*, BGR called for amending the city charter to give the Master Plan the force of law – that is, to require the City to abide by its own plan. BGR also called for limiting amendments to a biennial basis. In this publication, BGR suggests an annual process to provide more leeway as New Orleans rethinks its future and rebuilds.

- **Reallocate Decision Making Power**
  BGR made a series of recommendations that would transfer from City Council to other bodies the authority to decide land use matters relating to specific parcels, as opposed to broad areas of the city. The underlying theory is that such decisions are administrative, rather than legislative. Subjecting administrative determinations to the legislative process runs a high risk of politicizing or otherwise undermining them.

- **Conditional Uses**
  BGR recommended shifting the power to decide conditional use applications from the City Council to the City Planning Commission.

- **Illegal Spot Zonings**
  BGR recommended designating the City Planning Commission as the body that determines whether a requested map change would constitute an illegal spot zoning. Such a determination would result in an automatic denial of the request.

- **Incorporate Neighborhoods into the Planning Process**
  Beyond the most basic and general public notice requirements, the city charter does not speak to the issue of citizen or neighborhood participation in the land use decision making process. To ensure that the views of the city’s residents receive serious consideration, BGR recommended the creation of a system for organized, expeditious, meaningful neighborhood participation in the land use decision making process.

### CODIFYING REFORM

BGR is now proposing the language for charter amendments that would implement the reforms described above. It is also propos-
ing an additional revision that would change the appointment process for the City Planning Commission. The revision, which is discussed more fully below, is designed to offset the increased politicization that could accompany increased power for that body. A mirror revision is proposed for the Board of Zoning Adjustments.

The revisions resulted from several years of background research and were drafted over the course of eight months by BGR staff and nationally recognized land use expert and Washington University law professor Daniel Mandelker.

Before producing the final proposals, BGR solicited comment on proposed changes from a number of nationally recognized land use experts, local land use lawyers, local nonprofit organizations focused on neighborhoods and land use matters, and local developers. It also sought comment from the Mayor, the City Council, the City Planning Commission, and city legal staff. BGR took into consideration all comments it received in producing the final proposals.

In this section, BGR provides an overview of the proposed charter revisions. In the Appendix, it provides the proposed text with a commentary explaining the proposed revisions.

- **Giving the Master Plan the Force of Law**
  To give the Master Plan the force of law, the amendment would require that all land use regulations and land use actions be consistent with the Master Plan. It sets forth a process for evaluating whether a land use regulation or action is consistent with the plan. The proposed amendment requires the City Council to adopt the Master Plan and gives the Council the power to amend it. It also limits review and revision of the Master Plan to an annual basis, to prevent ad hoc decision making.

- **Shifting Decision Making on Conditional Uses**
  The amendment would shift the authority to approve or deny conditional uses from the City Council to the City Planning Commission.

- **Building an Independent Planning Commission**
  To ensure independent and responsible stewardship, the proposals include a requirement that potential members of the City Planning Commission be nominated by a committee consisting of planning professionals as well as business and neighborhood representatives. The same change would apply to the Board of Zoning Adjustments.

- **Creating a System of Neighborhood Participation**
  The amendments would add a new chapter creating the framework for an organized system of neighborhood participation in planning and land use decision making processes. The new chapter would empower neighborhoods by giving them the opportunity to gain official recognition by the City. Recognition would give neighborhood organizations certain new privileges. It would allow Recognized Neighborhood Organizations to serve as the official voice for an area with defined boundaries, to participate directly in the land use decision making process, and to address the City on quality of life issues. It would also empower them to propose neighborhood plans for incorporation in the Master Plan and to participate in the master planning process. It would give them a role in individual land use decisions by requiring the City to provide the opportunity for review of land use actions and regulations and requiring the City to respond to neighborhood concerns.

  The new chapter would create a Neighborhood Participation Office. It would charge the office with the responsibility of handling the neighborhood recognition process. The office would also provide ongoing support to neighborhoods in creating neighborhood plans and participating in the land use decision making process. The office would offer an administrative framework to nurture neighborhood organizations and boost citizen participation.

  The proposed changes are designed to be broad and flexible enough for inclusion in the city charter. More detailed adjustments to the decision making process can be pursued through ordinances.

  Looking forward, it is important to
understand that the proposed changes are interlocking parts of a system. It makes little sense to give the Master Plan the force of law unless the plan is developed with professional guidance from an independent planning department and organized neighborhood participation. It makes little sense to reallocate decision making power without ensuring that the decision making body includes individuals who understand planning, that they are constrained by the guidance of the Master Plan, and that they are responsive to the citizenry they serve.

IMPLEMENTATION

The city charter can be amended only by putting the proposed amendments to the voters of New Orleans. Proposals are initiated for placement on the ballot by ordinance of the City Council. Council action can be mandated by a petition containing 10,000 signatures submitted to the Council.

The proposed amendments and ballot language must then be submitted to the Louisiana Bond Commission for certification before being passed on to the Louisiana Secretary of State’s office for placement on an election ballot. State law and the city charter require that all these actions be performed by certain deadlines. If the voters approve the amendment by a simple majority vote, it goes into effect within the time frame specified by the amendment.

BGR recognizes that the amendment implementation process is lengthy and would prevent the proposed charter amendments from being placed before voters until 2007. Therefore, it recommends that the City Council take the interim step of implementing by ordinance, where possible, the changes proposed in the charter amendments. For example, the City Council can pass ordinances to require that land use actions and regulations conform to the Master Plan and create a neighborhood participation system as set forth in this document.

The City should also take action to staff the City Planning Commission to full strength. Currently, the planning staff lacks the professionals to handle daily business in a timely manner. To tackle new responsibilities, staffing must be a top priority.

CONCLUSION

As New Orleans looks to a new, unpredictable future, it can take at least one step to provide its citizens with a sense of clarity and security. Amending the city charter, as called for in this report, will not only achieve that end, but position New Orleans as one of the most progressive cities in the nation when it comes to planning and land use. The proposed amendments can reverse the arbitrary, unprofessional, top-down system under which citizens have for too long struggled.
Section 5-401. Creation and Composition.
The City Planning Commission shall consist of nine members who are electors of and domiciled in the City, appointed by the Mayor with the approval of the Council for terms of nine years, staggered so that the term of one member shall expire each year. \textit{The Council shall adopt an ordinance authorizing the creation of a nominating committee to nominate members of the City Planning Commission as vacancies occur. The committee shall consist of the head of the largest urban planning program at a university in the City, the head of the largest planning organization in Louisiana, a representative from the business community, a representative from an historic preservation organization, and a representative from a neighborhood organization. The committee shall nominate three persons for each vacancy and shall submit these nominations to the mayor, who shall select one of the persons nominated to fill the vacancy.}

Section 5-402. Functions.
The City Planning Commission shall:

(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 which shall include maps and a text setting forth principles, standards, and proposals. It 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 structures. 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.

(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 light, 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:

(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, 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, structures and land for trade, industry, business, residence, or other purposes.

(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 dam-

Section 5-401. This change would modify the appointment process for City Planning Commissioners by requiring the City Council to establish a nominating committee of planning professionals and business and neighborhood leaders.

Section 5-402(1). These changes were made to better organize the content of the chapter and to clarify that master plans generally include maps, rather than “a diagram,” as mentioned in the existing charter.

Section 5-402(3)(d). This change was made to ensure that blight remediation and public housing plans conform to the Master Plan.
aged by fire, earthquake, 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 program and assist the Chief Administrative Officer in the preparation of the capital budget.

(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) Adoption. The Commission shall adopt and, subject to the requirements set forth in 5-404 (4), may modify or extend the a 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. Upon adoption, the Commission shall forward the Master Plan to the City Council. Within 90 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 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.

(2) Publication and Filing. Upon adoption by the Council, certified copies of the plan and regulations and the 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 Effect of Master Plan.

(a) After the adopted Master Plan adopted by the Council 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 certification that it conforms 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 certification of the Commission certifying that the proposed action is in conformity with the adopted Master Plan.

(b) All Land Development Regulations shall be made consistent with the Master Plan within one year of City Council adoption and within six months of any amendment of the plan. Any Land Development Regulation that is not consistent with the Master Plan at the expiration of the compliance period shall be void.

(c) At all times, including the compliance period provided in paragraph (b), all Land-Use Actions shall be consistent with the Master Plan and any amendments to the Plan and shall be void if not consistent.

Section 5-402(3)(e). This change was made to ensure that plans for areas destroyed by disaster conform to the Master Plan.

Section 5-404(1). The first sentence was modified to conform with a proposed amendment limiting the frequency with which the Master Plan can be amended to no more than once a year. The main deletion is part of the reorganization mentioned at 5-402(1). The addition gives the City Council the power to adopt the Master Plan or adopt it with modifications, as long as it submits any modifications to the City Planning Commission for comment.

Section 5-404(3)(b)–(d). The proposed amendments would broaden the legal effect of the Master Plan by requiring that: (1) all land development regulations, including the Comprehensive Zoning Ordinance, be brought into conformity with the Master Plan within one year of its
(d) Before the City Council may enact or amend any Land Development Regulation, and before the Commission, the Board of Zoning Adjustments, or any other Government Body may take any Land-Use Action, the Commission shall prepare a written report to the City Council, the Board of Zoning Adjustments, or other Government Body in which it states whether the Land Development Regulation, amendment, or Land-Use Action is consistent with the Master Plan. The City Council, the Board of Zoning Adjustments, or other Government Body may not approve a Land Development Regulation, an amendment to a regulation, or a Land-Use Action if the Commission determines that it is not consistent with the Master Plan.

(e) The Commission shall find that a proposed Land Development Regulation, amendment to a Land Development Regulation, or Land-Use Action is consistent with the Master Plan if the regulation, amendment, or action:

(1) furthers, or at least does not interfere with, the goals, policies, and guidelines, including design guidelines, that are contained in the Master Plan; and

(2) is compatible with the proposed future land uses, densities, and intensities designated in the Master Plan.

(f) If the Commission determines that a Land Development Regulation, amendment to a Land Development Regulation, or Land-Use Action is not consistent with the Master Plan, it:

(1) shall state in a written report how it is inconsistent with the Master Plan; and

(2) may state in the written report what changes or revisions to the regulation, amendment, or action would be necessary to make it consistent with the Master Plan; or

(3) may state in the written report what amendments to the Master Plan would be necessary to eliminate any inconsistency between the Plan and the regulation, amendment, or action.

(g) Within one year after City Council’s adoption of the Master Plan, the Commission shall adopt a table or matrix specifying which zoning districts in the Comprehensive Zoning Ordinance are consistent with each of the land uses included in the land use element of the Master Plan. Within six months after City Council’s adoption of an amendment to the Master Plan, the Commission shall amend the table or matrix to show any changes that are required by the amendment.

(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 required, the Commission shall modify the Plan in accordance with the procedures of this Section.

(4) Mandatory Review. At least once every five years, but not more often than once every year, and at any time in response to a natural disaster or other declared emergency, the Commission shall review the Master Plan and shall determine, after one or more public hearings, whether the Plan requires amendment or comprehensive revision. If amendment or comprehensive revision is required, the Commission shall prepare and recommend amendments or comprehensive revisions and readopt the Plan in accordance with the procedures of this section. Upon adoption, the Commission shall forward the amendment or revision to the City Council. Within 90 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.

Section 5-404(3)(e)–(f). These additions stipulate the criteria under which the City Planning Commission is to determine whether or not a regulation or action is consistent with the Master Plan and provide for a written report explaining the Commission’s findings.

Section 5-404(3)(g). This addition requires the creation of a table or matrix that compares zoning districts in the Comprehensive Zoning Ordinances with land uses designated in the land use element of the Master Plan. The provision is designed to ensure that the Comprehensive Zoning Ordinance is consistent with the land use element of the Master Plan.

Section 5-404(4). The charter currently allows modification of the Master Plan at any time. The proposed change would limit the frequency with which the Master Plan can be amended to no more than once a year. The purpose is to ensure that revision of the Master Plan is an event that focuses public attention and occurs infrequently enough to minimize ad hoc revisions.
(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 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.

(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 widenings 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 Council shall refer all proposed zoning ordinances and amendments to the Commission for its recommendations.

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

Section 5-406(2). This amendment requires that City Planning begin review of the Comprehensive Zoning Ordinance immediately after the adoption or amendment of the Master Plan to ensure consistency.
(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.

Prior to making recommendations on any Land Development Regulation or amendment thereto, or taking any Land-Use Action, prior to adopting regulations concerning the subdivision of land, and prior to adopting the Master Plan or part thereof, the Commission shall comply with the requirements of Section 10-105 and the ordinances issued pursuant thereto. In addition, it shall hold a public hearing 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 and shall also be given to the Recognized Neighborhood Organizations for the affected neighborhoods as defined in Chapter 10.

Section 5-408. Approval of the Commission.
(1) 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, officer, 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.

(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 5-409. Board of Zoning Adjustments.
(1) Composition. There shall be attached to the Commission a Board of Zoning Adjustments to consist of 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. The Council shall adopt an ordinance authorizing the creation of a nominating committee to nominate members of the Board of Zoning Adjustments as vacancies occur. The committee shall consist of the head of the largest urban planning program at a university in the City, the head of the largest planning organization in Louisiana, a representative from the business community, a representative from an historic preservation organization, and a representative from a neighborhood organization. The committee shall nominate three persons for each vacancy and shall submit these nominations to the mayor, who shall select one of the persons nominated to fill the vacancy. 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 refused building permits because of a violation or conflict with the zoning ordinance or the 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 enforce-
ment of the zoning ordinance of the City.

(c) Have the power to permit exceptions to or variations from the zoning regu-
lations 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 5-410. 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.

CHAPTER 10. NEIGHBORHOOD PARTICIPATION

Section 10-101. Purpose.
The City shall create a system for organized and effective neighborhood par-
ticipation in land use decisions and other issues that affect quality of life. It
shall put neighborhoods and the citizens of New Orleans at the beginning of
the land use decision making process, rather than the end. It shall set out the
basis for City recognition of neighborhood organizations and define their
responsibilities.

Section 10-102. Identification of Neighborhoods.
Within 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 neigh-
borhood-based process using criteria adopted by the Commission. 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 con-
sist 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 neigh-
borhood organization for each neighborhood identified under Section 10-102
under uniform criteria it shall adopt after public notice and comment.

(3) The Neighborhood Participation Office shall:

(a) Provide technical assistance to help residents form neighborhood organiza-
tions that can qualify for recognition.

(b) Provide technical assistance and guidance to 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 participation.

(d) Provide when needed for the formation of neighborhood district councils
consisting of two or more Recognized Neighborhood Organizations.

Section 10-104. Functions of Recognized Neighborhood Organizations.
A Recognized Neighborhood Organization may engage in, but is not limited to

Section 10-101. This section requires the City to establish a system for
organized, expeditious, meaningful neighborhood participation in land
use decisions.

Section 10-102. This section calls on the City Planning Commission to cre-
ate an official map of the neighborhoods in New Orleans, through a par-
ticipatory public process.

Section 10-103. This section estab-
lishes a Neighborhood Participation Office. It directs the office to recog-
nize neighborhood organizations under uniform criteria. It requires the
office: to provide technical assistance to help residents form organizations
that qualify for recognition; to assist recognized organizations in the pro-
duction of Neighborhood Plans (discussed in further detail below); to
assist in other ways, including the encouragement of broad-based par-
ticipation; and to provide for collabora-
tion between multiple neighbor-
hood organizations to form “district councils.”

Section 10-104. This section outlines
the role of Recognized Neighborhood Organizations in certain activities.
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 the neighborhood, including but not limited to: land use, planning, zoning, 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 Regulation or Land Use Action affecting the neighborhood.

(3) 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.


(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 of 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 any 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 Organization’s 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 stormwater 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, 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.

These include: making land use and quality of life recommendations to City agencies, advising the City Planning Commission in the formulation of the Master Plan, and the formulation of Neighborhood Plans crafted for inclusion in the City’s Master Plan.

Section 10-105. This section requires City Council to adopt an ordinance providing a process for neighborhood review of land use regulations and actions.

Chapter 11. This section provides definitions of key terms used in the proposed amendments to Article V of the city charter.
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