

May 14, 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 the Land Use Map and Zoning Map. ~~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. Orientation and Continuous Education Training for Planning Commission and Board of Zoning Adjustments Members

Section 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, appointed by the Mayor with the approval of the City Council for a term of five nine years, staggered so that the terms of no more than two members term of one member shall expire each year. The Council shall adopt an ordinance authorizing the creation of a Nominating Committee to nominate members of the City Planning Commission to serve on the Commission and to replace Commission members as vacancies occur. The Nominating 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 on the Commission and shall submit these nominations to the mayor, who shall select one of the persons nominated to fill the vacancy. Commission members shall serve no more than two terms and vacancies on the Commission shall be filled within a 90-day period

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 shall include maps and a text setting forth principles, standards, and proposals. The Master Plan shall include, but not be limited to, the following elements: Vision, Goals, and Policy; Land Use; Transportation; Housing; Community Facilities and Infrastructure; and Historic Preservation. 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 the City. 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) The City Planning Commission shall hear and decide all applications for Conditional Uses.

(6) 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), comprehensively revise the Master Plan. Preparation, or revision, may be by single resolution or by successive resolutions relating to parts of the Master Plan corresponding to the 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, or other designated neighborhood planning unit, to solicit the opinions of citizens that live or work in that

district, or planning unit, and a public hearing to solicit the opinions of citizens from throughout the community, prior to completion of the Master Plan and comprehensive revisions 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 revisions thereof, and following adoption of a resolution authorizing same, the Commission shall forward the Master Plan, or revisions thereto, to the City Council. Within 45 days of its receipt, the Council shall adopt the Master Plan, or revisions thereto, or shall adopt same 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.

(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 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 be immediately amended to include said table. Said table shall be amended, or updated as required, to accommodate amendments, or revisions, to the Comprehensive Zoning Ordinance or Master Plan.

(c) All land development regulations and amendments thereto, including amendments to the zoning ordinance and the zoning map, as well as all other Land Use Actions, including but not limited to, preliminary or final approval of a subdivision plan; site plan; approval of a planned unit development, or similar site specific development plan; approval of conditional use; granting of a variance, or a decision by local government to construct a capital improvement; and/or acquire land or community facilities, including transportation facilities shall be consistent with the Master Plan adopted by the City Council.

(d) A Land Use Action is consistent with the Master Plan if the Land Use Action:

(1) Is consistent with the proposed future land uses set forth in the Land Use Element of the Master Plan, as reflected in the table referred to in Sec. 5-404(3)(b), and all applicable land use policies indicated in the Land Use Element of the Master Plan.

(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 comprehensive revision. If comprehensive revision is required after the comprehensive review, the Commission shall prepare and recommend comprehensive revision and readopt the Plan in accordance with the procedures of section 5-404 (1). Upon adoption, the Commission shall forward the comprehensive revision to the City Council, which shall act in accordance with the procedures of section 5-404 (1).

~~(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 applications 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, or other designated neighborhood planning unit, 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 considering amendments to 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 the public hearings, and the adoption, modification, or denial of the amendments to the Master Plan by the Planning Commission, the amendments shall be forwarded to the City Council. Within 45 days of its receipt of the amendments, the Council shall either deny or accept each such amendment to the Master Plan.

(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) Prior to making recommendations on any zoning ordinance or amendment thereto, and 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 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.

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

(4) The Commission shall hear and decide all applications for conditional uses authorized by the zoning ordinance under criteria and procedures provided in the zoning ordinance. All such decisions shall be consistent with the Master Plan as provided in section 5-404(3)(c).

(5) 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 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 of the Commission is required of any proposal, the approval 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 ~~seven~~ members who shall be domiciled in and electors of the City, appointed by the Mayor with the approval of the Council for a term of five years, five-year terms staggered so that the terms of no more than one member 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 to serve on the Board and to replace Board members as vacancies occur. The Nominating 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 on the Board and shall submit these nominations to the mayor, who shall select one of the persons nominated to fill the vacancy. 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 refused 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. Orientation and Continuous Education Training for Planning Commission and Board of Zoning Adjustments Members.

(1) *Training.* Each Planning Commission and Board of Zoning Adjustments member shall attend a minimum of four hours of orientation training concerning the

duties and responsibilities of the Planning Commission, or Board of Zoning Adjustments, either prior to taking office or no later than one year after office is assumed. All training shall be approved by, and under the supervision of, the City Planning Commission.

(2) *Continuing education.* All members of the City Planning Commission and the Board of Zoning Adjustments shall receive within each calendar year at least four hours of continuous education in any of the subjects listed in subsection (3) of this section. All training shall be approved by, and under the supervision of, the City Planning Commission.

(3) *Education subjects.* The subjects for the education required by subsections (1) and (2) of this section shall include, but not be limited to, the following: land use, land use planning, land use law, zoning, transportation, community facilities, historic preservation, ethics, public utilities, parliamentary procedure, public hearing procedure, economic development, housing, public buildings, land subdivision, and powers and duties of the Planning Commission and Board of Zoning Adjustments.

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. DEFINITIONS

For purposes of this Article:

“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 a map in the Land Use Element of the Master Plan that sets forth categories of allowable land uses and density for the purpose of directing the future development and redevelopment of private and public property in the City

“Zoning Map” means the Official Zoning District Maps adopted with the New Orleans Comprehensive Zoning Ordinance, setting forth the boundaries of each land use designation and showing authorized land uses and densities for such uses within each designated area.

Public Notice: The above Amendments to the Home Rule Charter of the City of New Orleans, if adopted by City Council and approved by the legally registered voters of Orleans Parish on November 4, 2008, shall not go into effect and have the force of law until the Master Plan and a new Comprehensive Zoning Ordinance presently under contract are completed, and the Mayor has appointed, with the approval of the City Council, the members of the City Planning Commission and the Board of Zoning Adjustments as required under the aforementioned Charter Amendments.