

ORDINANCE  
(AS AMENDED)  
CITY OF NEW ORLEANS

CITY HALL: June 5, 2008

CALENDAR NO: 27,019

NO. **23141** MAYOR COUNCIL SERIES

BY: COUNCILMEMBER CLARKSON

AN ORDINANCE calling an election for Tuesday, November 4, 2008, at which shall be submitted to the electors of the City of New Orleans, a certain proposal to amend Section 3-112 and Sections 5-401 through 5-412 of the Home Rule Charter of the City of New Orleans relative to City Planning Commission and the City's Master Plan acquiring the force of law; and otherwise to provide with respect thereto.

1                   **SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS**

2           **HEREBY ORDAINS** That an election is hereby called, in conformity with Section 9-  
3           202 of the Home Rule Charter of the City of New Orleans and Article VI, Section 4 of  
4           the Louisiana Constitution of 1974, at which election there shall be submitted to the  
5           qualified electors of the City of New Orleans, for their approval or rejection, a proposal  
6           to amend Section 3-112 and Sections 5-401 through 5-412 of the Charter of the City of  
7           New Orleans as set forth in Appendix "A" to this ordinance, which is attached hereto and  
8           made part hereof.

1                   **SECTION 2.** That said election shall be held on Tuesday, November 4, 2008  
2           between the hours of 6:00 a.m. and 8:00 p.m. under the General Election Laws of the  
3           State of Louisiana.

1           **SECTION 3.** a)   That the official ballot to be used at said election and inserted  
2 in all voting machines shall have printed thereon the following:

3           "CITY CHARTER AMENDMENT – CITY PLANNING COMMISSION AND  
4           CITY’S MASTER PLAN ACQUIRING FORCE OF LAW.

5           SUMMARY: THIS PROPOSITION AMENDS ARTICLES III AND V OF THE HOME  
6           RULE CHARTER OF THE CITY OF NEW ORLEANS RELATIVE TO THE CITY  
7           PLANNING COMMISSION AND CREATION OF A MASTER PLAN WITH THE  
8           FORCE OF LAW. THE AMENDMENTS MAKE SUBSTANTIVE CHANGES,  
9           INCLUDING THE FOLLOWING: PROVIDING THAT THE PLANNING  
10          COMMISSION CONSIST OF NINE MEMBERS APPOINTED BY THE MAYOR  
11          WITH APPROVAL OF THE COUNCIL FOR NINE YEAR TERMS; REQUIRING  
12          PLANNING COMMISSION TO PREPARE A 20-YEAR MASTER PLAN FOR THE  
13          DEVELOPMENT OF THE CITY; REQUIRING THE PLANNING COMMISSION TO  
14          FORWARD THE MASTER PLAN TO THE COUNCIL FOR ADOPTION;  
15          REQUIRING THE COUNCIL TO ADOPT THE MASTER PLAN WITH OR  
16          WITHOUT MODIFICATIONS, OR REJECT IT OR IF THE COUNCIL DOES NOT  
17          ACT AFTER RESUBMISSION, THE MASTER PLAN SHALL BE DEEMED  
18          ADOPTED; AT LEAST EVERY FIVE YEARS, BUT NOT MORE OFTEN THAN  
19          ANNUALLY, REQUIRING THE PLANNING COMMISSION TO REVIEW THE  
20          MASTER PLAN AND DETERMINE WHETHER THE PLAN REQUIRES  
21          AMENDMENT OR COMPREHENSIVE REVISION; REQUIRING THE COUNCIL  
22          TO ADOPT OR REJECT THE AMENDMENT OR REVISION OF THE MASTER  
23          PLAN, OR TO ADOPT THEM WITH MODIFICATIONS; REQUIRING THE

24 PLANNING COMMISSION TO PREPARE AND RECOMMEND TO THE COUNCIL  
25 A ZONING ORDINANCE FOR THE PURPOSE OF IMPLEMENTING THE MASTER  
26 PLAN; PROVIDING THAT THE COUNCIL MAY PERIODICALLY AMEND SAID  
27 ORDINANCE, PROVIDED THE AMENDMENTS ARE CONSISTENT WITH THE  
28 MASTER PLAN ; REQUIRING THAT THE CAPITAL IMPROVEMENT PLAN BE  
29 CONSISTENT WITH THE MASTER PLAN; REQUIRING THE COUNCIL TO  
30 ESTABLISH BY ORDINANCE A SYSTEM FOR ORGANIZED AND EFFECTIVE  
31 NEIGHBORHOOD PARTICIPATION IN GOVERNMENT; PROVIDING FOR A  
32 BOARD OF ZONING ADJUSTMENTS, TO CONSIST OF SEVEN MEMBERS  
33 APPOINTED BY THE MAYOR WITH THE APPROVAL OF THE COUNCIL FOR  
34 FIVE YEAR TERMS; THESE AND OTHER TECHNICAL AND SUBSTANTIVE  
35 CHARTER AMENDMENTS PROPOSED IN THIS PROPOSITION ARE  
36 CONTAINED IN APPENDIX “A” TO ORDINANCE NUMBER 23,141, M.C.S.  
37 Shall Section 3-112 and Sections 5-401 through 5-412 of the Home Rule Charter of the  
38 City of New Orleans regarding the City Planning Commission and the City’s Master Plan  
39 be amended by making the additions, deletions and modifications summarized  
40 hereinabove and as fully set forth in Appendix “A” to Ordinance No. 23,141 M.C.S.? ”  
41 b) The summary shall be in the preceding form, subject to such modifications, additions  
42 and deletions that are necessary in the opinion of the City Attorney to enable the  
43 summary to conform to all requirements of law.

1           **SECTION 4.** That upon adoption of this Ordinance, the Clerk of Council shall  
2 insert in Section 3 hereof in the blank in the phrase “Ordinance No. 23,141 M.C.S.” , in  
3 the place where it appears in the ballot proposition proposed by this ordinance, the Mayor

4 Council Series number hereof, which number shall be printed on the official ballot in lieu  
5 of the said blank.

1 **SECTION 5.** That all officials of the State of Louisiana and City of New Orleans  
2 who are charged with the execution of laws and the discharge of duties relative to said  
3 election are directed to perform the duties required of them by such laws with regard to  
4 said election.

1 **SECTION 6.** That the Council and other municipal and parochial officers shall  
2 by proper proceedings provide:

- 3 a) for the taking of all necessary steps for the holding and  
4 conducting of said election; and
- 5 b) for the supplying of voting machines and furnishing of the  
6 official absentee ballots, tally sheets, and other necessary  
7 election supplies; and
- 8 c) for the selection and publishing of the location of the respective  
9 polling places; and
- 10 d) for the issuance of any proclamation and the giving of all  
11 notices concerning said election as may be necessary; and
- 12 e) for the taking of all proper and necessary steps to cause the  
13 election to be held, the votes compiled, and the results  
14 promulgated, as provided by existing laws and the Charter of  
15 the City of New Orleans.

1 **SECTION 7.** That the Mayor of the City of New Orleans is hereby authorized

2 and empowered to issue any proclamation and to give all notices concerning said election  
3 as may be necessary, and to take all steps necessary and proper to cause said election to  
4 be held as herein ordered.

5 Notices of said election in substantially the form attached hereto as “Appendix  
6 “B” and incorporated herein by reference as if the same were set forth herein in full, shall  
7 be published in the official journal of the City of New Orleans once a week for four  
8 consecutive weeks, with the first publication being not less than 45 days, nor more than  
9 90 days prior to the date of the election; said notice to state that the Council of the City of  
10 New Orleans shall in open session, at 10:00 a.m., in the Council Chamber at its next  
11 regular meeting following receipt of the returns, proceed to examine and canvass the  
12 returns and declare the results of said election.

1 **SECTION 8.** That the Clerk of Council shall promptly cause this ordinance,  
2 which is adopted pursuant to Section 9-201 *et seq* of the Home Rule Charter of the City  
3 of New Orleans, to be published at length in the official journal of the City of  
4 New Orleans the number of times required by law and not less than sixty (60) days prior  
5 to said election.

1 **SECTION 9.** That should more than one proposition be voted on at the same  
2 time, then in that event, this and all such other proposals shall be consecutively identified  
3 on the ballot so that each proposal may be separately voted on.

1 **SECTION 10.** That immediately upon the completion of the canvass of the  
2 returns of the election at which the aforesaid proposition has been submitted to the duly  
3 qualified electors of the City of New Orleans, the Council of the City of New Orleans  
4 shall make an order declaring the result of the election upon the proposition and shall

5 show the total number of votes cast upon the proposition and the number of votes cast  
6 respectively for and against the proposition. If a majority of votes cast are in favor of the  
7 proposition, the effectiveness of the amendments to the Home Rule Charter shall occur in  
8 accordance with the following:

9 a) Article V, Chapter 4, Section 5-401 (Appointment to the Planning Commission) shall  
10 take effect immediately, but shall apply only as vacancies occur on the Commission.  
11 Sitting Commission members may serve for the remainder of their terms and shall be  
12 given consideration for reappointment.

13 b) Article V, Chapter 4, Section 5-408 (Appointment to the Board of Zoning  
14 Adjustments) shall take effect immediately, but shall apply only as vacancies occur on  
15 the Board. Sitting members may serve the remainder of their terms and shall be given  
16 consideration for reappointment.

17 c) Article V, Chapter, Section 5-411 (Neighborhood participation established by  
18 ordinance) shall take effect eighteen months from the date on which the Amendments  
19 herein received an affirmative vote of the electorate or upon the Neighborhood  
20 Participation Ordinance described in Section 5-411 becoming law, whichever is sooner.

21 d) The remainder of the Amendments to the Home Rule Charter shall take effect thirty-  
22 six months from the date on which the Amendments herein received an affirmative vote  
23 of the electorate, or once the Master Plan and the Comprehensive Zoning Ordinance  
24 currently under revision are completed and adopted by the City Planning Commission,  
25 whichever is sooner.

1           **SECTION 11.** That if the proposition is approved by a majority of the electors of  
2 the City voting thereon, the City Attorney is hereby authorized and directed to file

3 authenticated copies thereof in the offices of the Recorder of Mortgages for the Parish of  
4 Orleans, the Secretary of State, and any other office required by law within thirty (30)  
5 days after said election.

1           **SECTION 12.** That immediately upon this ordinance becoming law, the Council  
2 Clerk and the City Attorney shall forthwith transmit certified copies thereof to the  
3 Director of the Louisiana Bond Commission; and the City Attorney shall promptly do  
4 any and all things necessary to obtain approval and pre-clearance of the amendment  
5 herein proposed by the United States Department of Justice pursuant to the Voting Rights  
6 Act.

1           **SECTION 13.** That immediately upon this ordinance becoming law, the Clerk of  
2 Council be and she is hereby empowered, authorized and directed to forward certified  
3 copies of this ordinance to the Secretary of State, the Commissioner of Elections, the  
4 Clerk of Criminal Court and Ex-Officio Custodian of Voting Machines in and for the  
5 Parish of Orleans, Louisiana, the Clerk of Civil District Court for the Parish of Orleans,

6 and Registrar of Voters in and for said parish, and such other officials as the Council may  
7 desire, as notification of the special election herein called in order that each may prepare  
8 for said election and perform respective functions as required by law.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS JULY 10, 2008

JACQUELYN B. CLARKSON  
PRESIDENT OF COUNCIL

DELIVERED TO THE MAYOR ON JULY 11, 2008

APPROVED:

~~DISAPPROVED:~~ JULY 18, 2008

C. RAY NAGIN  
MAYOR

RETURNED BY THE MAYOR ON JULY 21, 2008 AT 11:15 .A.M.

PEGGY LEWIS  
CLERK OF COUNCIL

YEAS: Carter, Clarkson, Fielkow, Head, Hedge-Morrell, Midura,  
Willard-Lewis - 7

NAYS: 0

ABSENT: 0



(SUBSTITUTE)

APPENDIX "A"

TO ORDINANCE NO. 23,141 M.C.S.

**PROPOSED CHARTER AMENDMENTS – HOME RULE CHARTER OF THE CITY OF NEW ORLEANS (Additions to charter are underlined, deletions struck through.)**

The text of this document has been coded for ease of review by the reader to indicate where proposed ~~deletions from~~ and additions to the current Home Rule Charter have been made. One effect of such coding is to alter the length of the document, since it retains much of the material that will ultimately be deleted from the amended Charter. The actual length of the amended Charter as revised will be much different than the document you hold in your hands.

**ARTICLE III  
THE COUNCIL**

\* \* \* \*

**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, amendment, or comprehensive revision of the Master Plan or the eComprehensive zZoning eOrdinance, including the Future Land Use Map and Zoning Map without limitation text amendments, zoning or rezoning, or changing the zoning districts or classifications. 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 5-411. Neighborhood Participation**

**Section 5-412. Definitions**

**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~~ one ~~member~~ 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 he~~

~~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, adopt, amend, 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 Future 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 future land uses, and the zoning ordinance that implements those provisions, may also address urban form and design. They 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.

(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.

(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) Hear and decide all applications for conditional uses.~~

~~(6) (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 the Master Plan. Prior to completion of the Master Plan, the Commission shall hold at least one public meeting for 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; it shall also hold at least one public hearing to solicit the opinions of citizens from throughout the community. In addition, it shall take affirmative steps to involve neighborhoods in master planning activities and comply with the requirements of any neighborhood participation program that the City, pursuant to Section 5-411, shall adopt by ordinance. Each public hearing or meeting shall be duly advertised in a newspaper of general circulation at least fifteen (15) but not more than (45) forty-five days in advance. Upon completion of the public meetings and hearing(s) and completion of the Master Plan, and following the adoption of the plan by resolution, the Commission shall forward the Master Plan to the City Council for adoption by ordinance. Within ninety (90) days of its receipt, the Council shall adopt the Master Plan, reject it, or propose modification. If it rejects the plan, or proposes any modification, the Council shall refer it to the Commission for public hearing and comment. The City Planning Commission shall consider and provide a recommendation to the City Council on the rejection or modification within (60) sixty days of receipt from the City Council. The Council shall take final action to adopt the Master Plan, with or without modification, within (45) days of receipt of the recommendation from the City Planning Commission. Should the City Council fail to act on the Master Plan as required by this section after its submission by the Planning Commission, or after a resubmission by the Commission after the Council has modified or rejected the Plan, the Master Plan initially submitted to the Council by the Commission shall be deemed adopted by the Council. Following the adoption by the City Council 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 significantly altered ~~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~~ the relationship between the land use designation and the zoning classification included in the Land Use Element of the Master Plan and reflected on the Future Land Use Map. The comprehensive zoning ordinance shall be simultaneously 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 Land Use Element of the 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) Furthers, or at least does not interfere with, the goals, policies, and guidelines, including design guidelines, that are contained in the Land Use Element of the Master Plan.

(2) Is compatible with the proposed future land uses, densities, and intensities designated in the Land Use Element of 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 per calendar year, and at any time in response to a 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. The Commission shall hold at least one public meeting for each planning district or other designated neighborhood planning unit affected by amendments or revision in order to solicit the opinions of citizens that live or work in that district or planning unit; it shall also hold at least one public hearing to solicit the opinions of citizens from throughout the community. In addition, it shall comply with the requirements of any neighborhood participation program that the City, pursuant to Section 5-411, shall adopt by ordinance. Each public hearing or meeting shall be duly advertised in a newspaper of general circulation at least fifteen (15) but not more than (45) forty-five days in advance. Upon completion of the public hearings and meetings and following the adoption by resolution of the amendment or comprehensive revision, the Commission shall forward the amendment or revision to the City Council for adoption by ordinance. Within ninety (90) days of its receipt, the Council shall adopt the amendment or revision to the Master Plan, reject the amendment or revision, or propose modification. If it proposes any modification, the Council shall refer it to the Commission for public hearing and comment. The City Planning Commission shall consider and provide a recommendation to the City Council on the modification within

(60) days of receipt from the City Council. The City Council shall take final action on the proposed amendment or revision within (45) days of receipt of the recommendation from the City Planning Commission.

~~(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.~~

(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.

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

### **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 must be consistent with the Master Plan.

Inconsistent ordinances and amendments 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 comprehensive 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)~~ (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 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~~ (90) ninety 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 ~~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 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~~<sup>six</sup> 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~~<sup>six</sup> 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.

(4) Removal from Position. Members of the Planning Commission and Board of Zoning Adjustments shall be subject to removal by a majority vote of the members of their respective Commission or Board if they fail to complete the requisite number of hours of orientation training and continuing education within the time allotted in this section.

(5) Validity of Decisions. A failure of one or more members of the Planning Commission or Board of Zoning Adjustments to complete the orientation training or continuing education requirements shall not effect, impact, or invalidate a decision of the Commission or Board.

**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.

**Section 5-411. Neighborhood Participation.**

The City shall establish by ordinance a system for organized and effective neighborhood participation in land use decisions and other issues that affect quality of life. It shall provide for timely notification to a neighborhood of any proposed Land Use Action

affecting the neighborhood; it shall also provide the opportunity for meaningful neighborhood review of and comment on such proposals. In addition, it shall provide the opportunity for meaningful neighborhood participation in the formulation of the Master Plan or any amendment thereto.

**Section 5-412. Definitions.**

For purposes of this Article:

“Future 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

“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.

“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.

**(AS AMENDED)**

**APPENDIX “B”**

**NOTICE OF SPECIAL ELECTION**

**CITY HALL**

**NEW ORLEANS, LOUISIANA**

Pursuant to the provisions of Ordinance Calendar No. 27,019 adopted by the Council of the City of New Orleans, Louisiana, the governing authority of the City of New Orleans, Louisiana (“the City”) on July 10, 2008, **NOTICE IS HEREBY GIVEN** that a Special Election shall be held in the City of New Orleans on November 4, 2008, between the hours of six o’clock (6:00) A.M. and eight o’clock (8:00) P.M. and that at said election there will be submitted to all registered voters of the City qualified and entitled to vote at said election and under Constitution and laws of the State of Louisiana and the Constitution of the United States, the following proposition:

**PROPOSITION**

**"CITY CHARTER AMENDMENT – CITY PLANNING COMMISSION AND CITY’S MASTER PLAN ACQUIRING FORCE OF LAW.**

**SUMMARY: THIS PROPOSITION AMENDS ARTICLES III AND V OF THE HOME RULE CHARTER OF THE CITY OF NEW ORLEANS RELATIVE TO THE CITY PLANNING COMMISSION AND CREATION OF A MASTER PLAN WITH THE FORCE OF LAW. THE AMENDMENTS MAKE SUBSTANTIVE CHANGES, INCLUDING THE FOLLOWING: PROVIDING THAT THE PLANNING COMMISSION CONSIST OF NINE MEMBERS APPOINTED BY THE MAYOR WITH APPROVAL OF THE COUNCIL FOR NINE YEAR TERMS; REQUIRING PLANNING COMMISSION TO PREPARE A 20-YEAR MASTER PLAN FOR THE DEVELOPMENT OF THE CITY; REQUIRING THE PLANNING COMMISSION TO FORWARD THE MASTER PLAN TO THE COUNCIL FOR ADOPTION; REQUIRING THE COUNCIL TO ADOPT THE MASTER PLAN WITH OR WITHOUT MODIFICATIONS, OR REJECT IT OR IF THE COUNCIL DOES NOT ACT AFTER RESUBMISSION, THE MASTER PLAN SHALL BE DEEMED ADOPTED; AT LEAST EVERY FIVE YEARS, BUT NOT MORE OFTEN THAN ANNUALLY, REQUIRING THE PLANNING COMMISSION TO REVIEW THE MASTER PLAN AND DETERMINE WHETHER THE PLAN REQUIRES AMENDMENT OR COMPREHENSIVE REVISION; REQUIRING THE COUNCIL TO ADOPT OR REJECT THE AMENDMENT OR REVISION OF THE MASTER PLAN, OR TO ADOPT THEM WITH MODIFICATIONS; REQUIRING THE PLANNING COMMISSION TO PREPARE AND RECOMMEND TO THE COUNCIL A ZONING ORDINANCE FOR THE PURPOSE OF IMPLEMENTING THE MASTER PLAN; PROVIDING THAT THE COUNCIL MAY PERIODICALLY AMEND SAID**

ORDINANCE, PROVIDED THE AMENDMENTS ARE CONSISTENT WITH THE MASTER PLAN ; REQUIRING THAT THE CAPITAL IMPROVEMENT PLAN BE CONSISTENT WITH THE MASTER PLAN; REQUIRING THE COUNCIL TO ESTABLISH BY ORDINANCE A SYSTEM FOR ORGANIZED AND EFFECTIVE NEIGHBORHOOD PARTICIPATION IN GOVERNMENT; PROVIDING FOR A BOARD OF ZONING ADJUSTMENTS, TO CONSIST OF SEVEN MEMBERS APPOINTED BY THE MAYOR WITH THE APPROVAL OF THE COUNCIL FOR FIVE YEAR TERMS; THESE AND OTHER TECHNICAL AND SUBSTANTIVE CHARTER AMENDMENTS PROPOSED IN THIS PROPOSITION ARE CONTAINED IN APPENDIX "A" TO ORDINANCE NUMBER 23,141 M.C.S. Shall Section 3-112 and Sections 5-401 through 5-412 of the Home Rule Charter of the City of New Orleans regarding the City Planning Commission and the City's Master Plan be amended by making the additions, deletions and modifications summarized hereinabove and as fully set forth in Appendix "A" to Ordinance No. 23,141 M.C.S.? "

The special election shall be held on the said date at the several polling places and precincts throughout the City of New Orleans as shall be designated by due authority and public notice thereof will be given. The special election will be held in accordance with the applicable provisions of the Louisiana Election Code (title 18 of Louisiana Revised Statutes) and other constitutional and statutory authority, and the officers appointed to hold the said election, as provided in this Notice of Special Election, or such substitutes thereof as may be selected and designated in compliance with Section 1287 of Title 18 of the Louisiana Revised Statutes will make due returns thereof to the Council of the City of New Orleans, and notice is hereby given that the Council shall meet at 10:00 A.M. at its regular meeting of **November 20, 2008** in the Council Chamber of the City of New Orleans, 1300 Perdido Street, New Orleans, Louisiana, following receipt of the returns, and shall then and there in open and public session proceed to examine and canvass the returns and declare the result of the special election. All registered voters in the city are entitled to vote at said special election and voting machines will be used thereat.