

**ORDINANCE
(AS AMENDED)
(AS CORRECTED)
CITY OF NEW ORLEANS**

CITY HALL: May 16, 2013

CALENDAR NO. 29,570

NO. 025450 MAYOR COUNCIL SERIES

BY: COUNCILMEMBER CLARKSON

AN ORDINANCE to amend and reordain Ordinance No. 4264 M.C.S., as amended by Ordinance No. 16,976 M.C.S. (as amended), the Comprehensive Zoning Ordinance of the City of New Orleans, to amend Article 16.9.2 "Notice Provisions" to include the Neighborhood Participation Program for Land Use Actions notification provisions, as adopted by the City Planning Commission on July 30, 2012, into the text and to make any other modifications to the text as needed for consistency and clarity, and otherwise to provide with respect thereto.

WHEREAS, Zoning Docket Number 16/13 was initiated by City Council Motion M-13-3 and referred to the City Planning Commission; and

WHEREAS, the City Planning Commission held a public hearing on this zoning petition and recommended approval of the text amendment in its report dated April 1, 2013 to the City Council, present in Zoning Docket Number 16/13; and

WHEREAS, the changes were deemed to be advisable and necessary and in the best interest of the City and were granted approval as stated in Motion Number M-13-151 of the Council of the City of New Orleans on May 2, 2013.

1 **SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS**
2 that Article 16 of Ordinance No. 4264 M.C.S., as amended by Ordinance No. 16,976 M.C.S., the

3 Comprehensive Zoning Ordinance of the City of New Orleans, be and is hereby amended and reordained
4 to read as follows:

5 **ARTICLE 16. - ADMINISTRATIVE PROVISIONS**

6 * * *

7 Article 16.9. - General Procedural Standards.

8 * * *

9 16.9.2. Notice Provisions.

10 1. Pre-Application Meeting and Project Neighborhood Participation Program.

11 All applications for zoning map amendments, conditional use permits, planned development
12 districts, permits for the transfer of development rights, variances, expansions of existing
13 industrial uses, and electric substation and transmission facilities subject to the provision of
14 Section 11.40.1 must include a Project Neighborhood Participation Program (Project NPP).
15 However, a Project Neighborhood Participation Program is not required for any application for a
16 text amendment, an overlay zoning district, an interim zoning district, a variance application
17 involving a single-family or two-family dwelling, any zoning amendment initiated by the City
18 Council, or any amendment initiated by the City Council to any ordinances for conditional use
19 permits, planned development districts, expansions of existing industrial uses subject to the
20 provisions of Section 13.9., electric substation and transmission facilities subject to the provisions
21 of Section 11.40.1., and rescissions for any of the aforementioned ordinances.

22 a. Applicants must first meet with the staff of the City Planning Commission to become
23 familiar with the process pertaining to the land use action, review any standards and
24 requirements pertaining to the proposed action, and obtain guidance on the requirements
25 of the Project NPP.

- 26 b. The Project NPP must include the following information:
- 27 (1) A brief description of the proposal including the estimated start and end dates for
28 the project. If the request involves a structure (existing or proposed), then site
29 plans must be provided.
- 30 (2) An outlined area map and a contact list for notifying the individuals and entities
31 identified in Section 16.9.2.4.(b).
- 32 (3) A general description of how members on the contact list will receive information
33 on the project, including a statement as to which public notification techniques
34 will be used for the project.
- 35 (4) A general description of how members on the contact list will be informed of any
36 changes or amendments to the proposed project after the applicant's initial contact.
- 37 (5) A statement as to how those impacted by the proposal will be provided an
38 opportunity to discuss the request if issues or questions should continue or
39 suddenly arise.
- 40 c. The applicant must provide notice and an opportunity for interested parties to attend a
41 meeting to discuss the proposed application not less than five (5) nor more than thirty (30)
42 days after the date on which the applicant provides notification to the parties on the
43 contact list. For the purposes of this section, meetings may be held in a physical location
44 or via other means that may be agreed upon by the applicant and the interested parties.
- 45 d. The applicant must submit a Project Neighborhood Participation Program report with the
46 application. The report must provide the following information:
- 47 (1) The names of the individuals and entities that were noticed and the total number of
48 number of people that participated in the process.

- 49 (2) A list of the concerns, issues, and problems expressed by the participants.
- 50 (3) A statement as to how each concern, issue, and problem is addressed and how the
51 applicant intends to continue to address them. If the concern, issue, or problem is
52 not being addressed, the applicant should state the reasons.
- 53 (4) Copies of letters, affidavits, meeting invitations, newsletters, publications, sign-in
54 sheets, and petitions received in support or against the proposed project, and any
55 other materials pertaining to the notification process.
- 56 (5) The date, time, and location of all meetings held with interested parties, or a
57 statement indicating the reasons if no meeting was held. No information pertaining
58 to any meeting held more than ninety (90) days prior to the submittal of the
59 application shall be accepted as part of the Project NPP report, except where
60 subsequent meetings with interested parties have occurred within the ninety (90)
61 days preceding the submittal of the Project NPP report.

62 2. Published Notice for City Planning Commission Hearings.

63 For applications for zoning text amendments, zoning map amendments, including requests
64 for overlay zoning district and interim zoning district classifications, planned development
65 districts, conditional use permits, and permits for transferable development rights,
66 variances, expansions of existing industrial uses, and electric substation and transmission
67 facilities subject to the provision of Section 11.40.1, a notice setting forth the date, time,
68 place and purpose of the public hearing, the name of the applicant, and identification of
69 the subject property must be published once a week for three (3) consecutive weeks in the
70 Official Journal of the City of New Orleans. At least twenty (20) days shall lapse between
71 the first publication and the date of hearing.

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3. Posted Notice.

For all public hearings, excluding those for zoning text amendments, interim zoning districts, overlay zoning districts, appeals from decisions of the Director of Safety and Permits, and zoning amendments initiated by the City Council covering multiple squares, the applicant is required to post notice as described in subsection a. below. For all public hearings for appeals from decisions of the Department of Safety and Permits, notice shall be posted as provided in subsection b. below.

a. Posted Notice by Applicant.

- (1) A notification sign must be installed by the applicant at least fifteen (15) consecutive days prior to the public hearing.
- (2) Such notification sign posted by the applicant must meet the following requirements:
 - i. The sign must be an official notification sign provided by the City.
 - ii. The sign must be posted at a prominent location on the subject property near the sidewalk or public right-of-way, and must be visible to passing pedestrians and motorists. If it is not feasible to post a notification sign on a subject property for whatever reason, a notification sign must be posted within the public right-of-way adjacent to the property at a location approved by the Department of Safety and Permits. For properties with more than one (1) street frontage, the applicant is required to post one (1) sign visible from each street frontage.

94 (3) The sign must indicate that the site is the subject of a land use application
95 and must provide contact information for the office of the City Planning
96 Commission for further information.

97 (4) The Department of Safety and Permits must verify that the notification sign
98 has been posted by the applicant.

99 b. Posted Notice by the Department of Safety and Permits

100 (1) Notification signs posted by the Department of Safety and Permits must
101 meet the following requirements:

102 i. The notification signs must be no less than eleven (11) inches by
103 seventeen (17) inches in size and must be posted at the two (2)
104 comer intersections of the block face on which the subject property
105 is located, or by any other means, method or placement deemed
106 appropriate by the Executive Director of the City Planning
107 Commission or the Director of the Department of Safety and
108 Permits to effect the intended public notice.

109 ii. The sign must indicate the type of application, the day, date, time
110 and place of the public hearing, and the address of the subject
111 property.

112 (2) Posting of notice by the Department of Safety and Permits in accordance
113 with this section may be required for any application if deemed necessary
114 by the Executive Director of the City Planning Commission or the
115 Director of the Department of Safety and Permits.

116 4. Mailed Notice.

- 117 a. Mailed notice is required for all initial City Planning Commission and Board of
118 Zoning Adjustments public hearings required by this ordinance, excluding those
119 for zoning text amendments; overlay zoning districts, interim zoning districts, and
120 zoning amendments initiated by the City Council covering multiple squares.
- 121 b. Mailed notice for public hearings held by the City Planning Commission must be
122 sent by regular mail at least fifteen (15) days before the public hearing to the
123 following individuals and entities. Mailed notice for public hearings held by the
124 Board of Zoning Adjustments must be mailed to the following individuals and
125 entities in accordance with the provisions of Section 14.9.
- 126 (1) The owner of record of the property, as indicated in the records of the
127 Orleans Parish Assessor's Office, and all persons expressly authorized in
128 writing by the owner to file the application.
- 129 (2) The owners of record of all properties, as indicated in the records of the
130 Orleans Parish Assessor's Office, located within three hundred (300) feet
131 of the property lines of the subject property. However, for public hearings
132 involving a site of twenty-five thousand (25,000) square feet or more in
133 area or a development of twenty-five thousand (25,000) square feet or
134 more in floor area, such notice must be expanded to six-hundred (600)
135 feet.
- 136 (3) The occupants of all properties indicated in subsections (1) and (2) above,
137 wherever the mailing address of the property owner as indicated in the
138 records of the Orleans Parish Assessor is different from the address of the
139 property.

140 (4) Any neighborhood association registered with the City Planning
141 Commission at the time of the pre-application meeting with boundaries
142 within which any portion of the subject property is located. For the
143 purposes of this section, the boundaries of a neighborhood association
144 shall be as provided on its registration form in the office of the City
145 Planning Commission.

146 c. The notice must set forth the name of the applicant, the date, time, place and
147 purpose of the hearing, and identification of the subject property.

148 5. Notification Following Decision.

149 Within ten (10) calendar days of the effective date of the City Council's ordinance for any
150 application for which notice is required under this section, written notification of such
151 action shall be mailed to the applicant by the Executive Director, stating the action taken
152 and including all conditions imposed and times established for satisfaction of such
153 conditions, if any.

154 6. Notice of Appeal or Termination of Approval.

155 a. Whenever appeal is taken from a final decision of the City Planning Commission
156 on an application following a public hearing, or prior to the City Council's review
157 of whether an approval by the Planning Commission or City Council should be
158 terminated, personal notice of the appeal or termination proceeding shall be given
159 to the applicant and other interested parties in the manner provided in subsection
160 (b). If appeal is taken from a decision of the Executive Director, or if no public
161 hearing was held prior to obtaining the approval, personal notice of the hearing
162 shall be given only to the applicant and the record owner of the property.

163 b. Whenever personal notice of a public hearing is required by this Section 16.9.2(4)
164 the City Planning Commission shall send notice by regular mail at least ten (10)
165 calendar days before the hearing to the applicant; to the record owner of the
166 property; to adjoining property owners; to any neighborhood organization that has
167 requested notice of such hearing; and if the matter to be considered is an appeal,
168 notice to all interested parties to the appeal. For purposes of this section, the term
169 "adjoining property owners" shall be in accordance with the provisions for mailed
170 notice in Section 16.9.2.4.b.

171 7. Costs of Notice.

172 All actual costs incurred by the City in preparing and publishing the notice required by
173 this article shall be paid by the applicant prior to publication or mailing of such notice
174 according to a schedule of fees established by the City Council.

175 8. Validity of Defective Notice.

176 a. No amendment, supplement or change to the Comprehensive Zoning Ordinance
177 shall be declared invalid by reason of any defect in:

178 (1) The publication of the notice of the purpose or subject matter and the time
179 and place of the hearing if the published notice gives reasonable
180 notification of its purpose, subject matter, substance or intent.

181 (2) The posting or display of a notification sign if evidence of installation of
182 the sign is presented.

183 (3) The mailing of notice to either adjoining property owners or neighborhood
184 associations.

185 (4) The NPP report as long as there was substantial compliance with 16.9.2(1).

186 b. Any defect in or failure to strictly adhere to the discretionary forms of notification
187 shall not form a basis for declaring invalid any ordinance or City Council action
188 on any zoning matter.

189 c. No denial by the City Council of any application, petition or other zoning matter
190 requiring notice shall be declared invalid by reason of any defect in any form of
191 public notice, if the applicant has received notice of the time, date and place of the
192 hearing.

193 * * *

194 16.9.3. Public Hearings by the City Planning Commission - General Procedures.

195 * * *

196 2. Conduct of Hearing.

197 a. Any person or persons may appear at a public hearing and provide testimony in
198 accordance with the provisions of this section and such public hearing rules as shall be
199 established by the City Planning Commission. Each person who appears at a public
200 hearing shall state his or her name, address, and if appearing on behalf of an organization
201 or individual, state the name and mailing address of the organization for the record.

202 b. The Chairperson shall exclude testimony or evidence that he or she finds to be irrelevant,
203 immaterial or unduly repetitious. Any person appearing as a witness may ask relevant
204 questions of other persons appearing as witnesses, but shall do so only through the
205 Chairperson at the Chairperson's discretion. The order of proceedings shall be as follows:

206 (1) The Executive Director may present a description of the proposed application and
207 a written or oral recommendation, if required. This recommendation shall address

208 each factor required by this Ordinance to be considered prior to approval of the
209 application.

210 (2) The applicant may present any information it deems appropriate.

211 (3) Neighborhood organizations, if any, may present any information they deem
212 appropriate.

213 (4) Public testimony shall be heard first in favor of the proposal, then in opposition to
214 it.

215 (5) Upon being recognized by the Chairperson, the Executive Director may respond to
216 any statement made by the applicant or to any public comment.

217 (6) Upon being recognized by the Chairperson, the applicant may respond to any
218 testimony or evidence presented by the staff or public.

219 c. The Chairperson, with approval of the body conducting the hearing, may continue the
220 public hearing. No new notice is required to reopen the hearing if a hearing is continued to
221 a date specified, provided that a public announcement of the future date, time, and place
222 of the continued hearing is made at the first hearing and placed in the minutes.

223 3. Record of Proceedings.

224 a. The City Planning Commission shall record the proceedings by any appropriate
225 means and such record shall be transcribed at the request of any person upon the
226 payment of a fee set by the City Council to cover the cost of transcription or
227 duplication of the audio record or tape.

228 b. The transcript of all proceedings, the minutes of the hearing, all applications,
229 exhibits and papers submitted, all staff and advisory body or Commission reports

230 and recommendations, and the decision and report(s) of the City Planning
231 Commission shall constitute the record.

232 * * *

1 **SECTION 2. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS**

2 that Article 14 of Ordinance No. 4264 M.C.S., as amended by Ordinance No. 16,976 M.C.S., the
3 Comprehensive Zoning Ordinance of the City of New Orleans, be and is hereby amended and reordained
4 to read as follows:

5 **ARTICLE 14. - BOARD OF ZONING ADJUSTMENTS**

6 * * *

7 **14.9. Notice And Public Hearing [for the Board of Zoning Adjustments].**

8 For all matters within the Board's jurisdiction, as set forth in this Article 14, the Board shall cause
9 a public hearing to be scheduled and shall decide the matter following such public hearing. The
10 Board of Zoning Adjustments shall give public notice of the date, time, and place of hearings in
11 the manner prescribed in Section 16.9.2, as well as personal notice to the interested parties no
12 later than five (5) days preceding the hearing date, in accordance with Section 16.9.2(4). Such
13 hearing shall be held within forty-five (45) days following the receipt of the application in correct
14 form, and a decision on the disposition of the matter shall be given within a period of forty-five
15 (45) days following the hearing date. At the hearing, any party may appear in person, by agent or
16 by attorney. Notice of the decision shall be provided as in Section 16.9.2(3).

17 * * *

1 **SECTION 3. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS**

2 that Article 13 of Ordinance No. 4264 M.C.S., as amended by Ordinance No. 16,976 M.C.S., the

3 Comprehensive Zoning Ordinance of the City of New Orleans, be and is hereby amended and reordained
4 to read as follows:

5 **ARTICLE 13. - NONCONFORMING USES**

6 * * *

7 13.9.5. Procedures [for the Expansion of Certain Existing Industrial Uses].

8 I. Site Plan Requirements and Final Decision-Maker.

9 A site plan prepared in accordance with Section 16.7 shall be submitted with an
10 application to expand an existing industrial use subject to this section. Copies of a
11 preliminary site plan for the proposed expansion shall be submitted to the City Planning
12 Commission and shall be processed in accordance with the provisions of Section 16.9.
13 Notification of the proposed expansion shall be provided in accordance with Section
14 16.9.2. The Planning Commission shall conduct a public hearing and make its
15 recommendation to the City Council, who shall be the final decision-maker on the site
16 plan. The City Council shall render its decision in accordance with Section 16.7.

17 * * *

1 **SECTION 4. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS**

2 that Article 11 of Ordinance No. 4264 M.C.S., as amended by Ordinance No. 16,976 M.C.S., the
3 Comprehensive Zoning Ordinance of the City of New Orleans, be and is hereby amended and reordained
4 to read as follows:

5 **ARTICLE 11. - SUPPLEMENTARY USE STANDARDS**

6 * * *

7 11.40. Utility, Electric Substations And Transmission Facilities.

- 8 1. In all RS, RD, RM, MS, RO, and B Districts, in which electric substations and transmission
9 facilities are authorized, the following standards apply:
- 10 a. Facilities must be approved by the Department of Utilities.
- 11 b. Substation facilities shall be on a site having a minimum area of one (1) acre or on sites
12 completely surrounded by public streets.
- 13 c. Substation facilities shall be located within and completely surrounded by an ornamental
14 fence or wall having a minimum of sixteen (16) feet in height and set back a minimum of
15 twenty (20) feet from all property lines in all residential districts and set back in accord
16 with applicable district regulations in all other districts.
- 17 d. All buildings or structures for substations, other than poles, shall be set back so as to
18 provide the yard areas required for a particular district with self-supporting radio towers
19 set back a minimum of fifty (50) feet in all residential districts and set back in accord with
20 district regulations in all other districts.
- 21 e. All structures other than poles or self-supporting radio towers shall be limited to the
22 height requirements of the particular district.
- 23 f. The location, character, and extent of proposed electric utility substations and
24 transmission lines shall be reviewed and approved by the City Planning Commission prior
25 to the issuance of required permits. Such review of said facilities shall ensure that the
26 facility will be in keeping with the existing neighborhood and adjoining property's
27 architectural and aesthetic characteristics so that the facility will not unnecessarily
28 adversely affect the existing environment of the area and will be consistent with the intent
29 and purposes of this Ordinance to promote public health, safety, morals, and general
30 welfare. In such instances the action of the City Planning Commission shall be final,

31 unless the City Council, by majority vote, determines that the Commission's action should
32 be reviewed, in which case, such action by the City Council shall be taken within thirty
33 (30) days from the date of final action by the City Planning Commission.

34 g. Prior to any review of transmission line facilities, the City Planning Commission shall, in
35 accord with Section 16.9.3, hold a public hearing in relation to the proposal. In such
36 instances notification shall be provided in accord with Section 16.9.2.

37 * * *

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS AUGUST 22, 2013

**JACQUELYN B. CLARKSON
PRESIDENT OF THE COUNCIL**

DELIVERED TO THE MAYOR ON AUGUST 23, 2013

**APPROVED:
DISAPPROVED: AUGUST 29, 2013**

**MITCHELL J. LANDRIEU
MAYOR**

RETURNED BY THE MAYOR ON AUGUST 29, 2013 AT 12:20 P.M.

**LORA W. JOHNSON
INTERIM CLERK OF COUNCIL**

ROLL CALL VOTE

**YEAS: Cantrell, Clarkson, Gisleson Palmer, Gray, Guidry, Head, Hedge-Morrell - 7
NAYS: 0
ABSENT: 0**

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THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY
Lora W. Johnson
INTERIM CLERK OF COUNCIL