



PART 1: ‘THE FORCE OF LAW’

WHAT DOES IT MEAN?

The 2008 charter amendment ensures that City decisions on land use and the expenditure of funds on capital improvements will reflect the recommendations in the Master Plan.

The element of the Master Plan called the *Land Use Plan* is the centerpiece of “force of law” in the Master Plan.

- All land use actions *must be consistent* with the goals, policies and strategies in the element (section) of the Master Plan called the “Land Use Plan.” The strategies include a set of land use principles, an urban design framework, urban design principles, and zoning principles, all designed to implement the land use goals and policies. **(See Volume 1, pp. 37–47; Volume 2, Chapter 14).**
- Land use actions include:
 - > Comprehensive Zoning Ordinance and all zoning amendments
 - > Preliminary and final approval of subdivision plans and plats
 - > Site plans
 - > Approval of planned unit development or other site-specific development plans
 - > Variances
- “*Consistency*” means that the land use actions must further, or at a minimum not interfere with, the goals, policies and strategies in the Land Use Plan section of the Master Plan. In practice this means that land use actions must reflect the distribution of land use categories, densities and intensities on the Future Land Use Map and be informed by the land use, urban design, and zoning principles in the Land Use Plan.
- For all land use actions, the City Planning Commission will make written findings about the consistency of the proposed land use action before rendering its opinion. The findings must include specific reference to the Land Use Element of the Master Plan, in the following categories: Future Land Use Map, goals, policies, and strategies including land use, urban design and zoning principles.

The requirement for land use consistency gives “force of law” to other elements of the Master Plan.

- Implementation of strategies and actions to achieve the goals of other elements of the Master Plan, such as Transportation, Neighborhoods and Housing, Green Infrastructure, and Enhancing Prosperity and Opportunity, will require land use actions that must be consistent with the Master Plan.
- All public projects, and all utility projects (publicly or privately owned) cannot be authorized or significantly altered unless they are consistent with the Master Plan. This conformity will occur through the operation of the Comprehensive Zoning Ordinance and other land use actions—all of which must be consistent with the Master Plan.

- The Future Land Use Map, through the distribution of land uses and densities across the city, will shape the way that these recommendations must be implemented. For example, the Future Land Use Map provides for mixed-use centers with sufficient density to support new transit stations and corresponding zoning consistent with the Future Land Use Map.
- Through enforcement of the consistency requirement in land use actions as related to urban design, the character and design of physical development that results from implementation of strategies and actions to achieve the goals in any element of the Master Plan will be required to be consistent with the Master Plan.

All City-funded capital improvements must be consistent with implementation of the Master Plan.

- The city government’s 5-year Capital Improvement Program and the annual capital budget must be consistent with the goals, policies and strategies in one or more of the Master Plan’s elements. For example, capital improvement projects that involve acquisition of land for parks or transportation rights of way, improvements to community centers, or city investments in capital improvements funded by other entities must be consistent with the Master Plan.
- If a city department proposes a project for the capital improvement program, that project must further or, at a minimum not interfere with, the goals, policies and strategies in the various elements of the Master Plan. Similarly, the annual capital budget must not contain projects that interfere with the goals, policies and strategies of the Master Plan. If a capital improvement is recommended in the Plan, the City is not obligated to fund that capital improvement, but to fund any capital improvement, whether or not it is in the Plan, it must be consistent with the Plan.
- The City Planning Commission will certify that proposed capital projects are consistent with the Master Plan before they are considered for inclusion in the capital improvement program. **(See Volume 1, pp. 51–53; Volume 2, pp. 16.12–6.13)**
 - > The Master Plan provides that City Departments proposing a capital project must prepare a narrative explanation of how the proposed project furthers or does not interfere with specific goals, policies and strategies in the Master Plan. CPC staff will review the narrative and prepare a consistency certification, if warranted.
 - > The CPC staff will provide the consistency certification to the CAO’s office before the capital improvement program is presented to the CPC.
 - > No project will be considered for the city capital program if it is not certified as consistent with the Master Plan.
- The annual capital budget must reflect the approved capital improvement program.
- The City may fund capital improvement projects that do not appear in the Master Plan as long as they are consistent with the Master Plan goals, policies and strategies.
- The Master Plan does not directly govern capital investments made by the state or federal governments, though they typically will consult with local government to make projects consistent with the Master Plan. As Louisiana is a strong home rule state, the City of New Orleans has the authority and may adopt and enforce zoning and building ordinances that affect state projects within city boundaries.¹

1 See *City of New Orleans v. Board of Commissioners of the Orleans Levee District*, 640 So.2d 237 (La 1994)

The charter amendment requires public and neighborhood participation in land use planning and land use decision making.

- Public participation is required during the preparation and review of the Master Plan and amendments to the Master Plan. The minimum required level of participation was exceeded many times over in the preparation of this Master Plan, including planning district meetings, other forms of neighborhood involvement, citywide public meetings and official citywide public hearings.
- The charter requires establishment by ordinance of a system for effective and meaningful neighborhood participation in decision making about land use and quality of life issues.

The Master Plan incorporates requirements for public and neighborhood participation in planning and decision making.

- The Master Plan includes a section titled “Community Participation Program,” which recommends a basic structure for the neighborhood participation requirement now in the City Charter. The details of this section do not have the “force of law” because the charter requires that the neighborhood participation system be established by ordinance. The Master Plan recommendations on a Community Participation Program (CPP) focus on moving forward to begin institutionalizing a process for neighborhood input on land use decisions. **(Volume 1, pp. 42–44; Volumes 2 and 3, Chapter 15.)** An ordinance will be required to make any CPP legally required.
- If the City Council is not ready to adopt a Master Plan that the CPC has adopted by resolution, it must refer the Plan back to the Commission for revision and a public hearing and comment before it returns to the Council for a final vote.

What else is in the charter amendment that is related to the Master Plan and has the force of law?

- The Master Plan may only be amended once a year and the amendment process must include public meetings and public hearings in the same process used when the Plan was first adopted.
- The Master Plan must undergo a review, with at least one public hearing, every five years to see if amendments are needed.

Full achievement of some aspects of the Master Plan Vision depends on partnerships with groups outside of city government whose actions are not directly controlled by the City Charter.

- Although much of the Master Plan is focused on city government activities, the scope of this Master Plan is much broader.
- Many Master Plan chapters contain goals that can be fully achieved only through collaboration with private, institutional, non-profit and citizen groups outside of city government, as well as other governmental bodies. For example, many of the Plan’s health and human services goals are in this category.
- In many cases, the Master Plan recommends that city government work with non-municipal groups,

despite the fact that these actions do not come under the umbrella of the “force of law” charter amendment. For example, establishment of the Public-Private Partnership (PPP) for economic development and implementation of recommendations for the activities of the PPP will involve the actions of partners independent of city government.

- The Master Plan also contains recommendations for actions by non-municipal groups that would contribute to achievement of Plan goals and the overall vision and encourages city collaboration and incentives to encourage these actions.
- Through land use actions and capital improvements that must be consistent with the Master Plan, as well as other municipal activities, the City can shape some of the activities of non-municipal groups.
- Full achievement of the Master Plan requires “force of law,” leadership, and partnerships.