

1. General information

The Subdivision Regulations are a body of regulations that guide the plotting of new lots throughout the city. The regulations have been in place since 1950 and have been gradually updated in the decades since. The regulations last underwent a major update in 1999. The resulting document is highly oriented toward the suburban subdivision development that was common in the late 20th century, where large lots of uniform shape and street orientation were plotted for low-density residential use. The regulations are poorly suited for subdivisions to facilitate redevelopment in historic, mostly built-out neighborhoods where the lot pattern is highly varied.

The city's development context has change tremendously since 1999 and particularly since Hurricane Katrina in 2005. The City adopted a master plan in 2010 and a new zoning ordinance in 2015. It has experienced substantial redevelopment activity in its historic neighborhood, as well as dramatic increases in housing costs that have made residential opportunities near schools, transit, and employment unavailable to many. The current Subdivision Regulations have exacerbated this trend by making it difficult and time-consuming to create new development sites, particularly in historic neighborhoods.

In addition to not being responsive to the re-development activity occurring in the city's older neighborhoods, the Subdivision Regulations also include antiquated administrative policies that do not reflect current technologies or are unnecessarily burdensome upon the public and CPC staff.

To address these problems in the substance of the regulations and deficiencies in the administrative processes, the staff has drafted an updated set of regulations. These regulations do not represent a starting from scratch. The staff retained the basic structure of the existing document but updated it to create a set of regulations that better address contemporary issues affecting the subdividing of lots, particularly in built-out neighborhoods, and refines the administrative process for greater efficiency.

It must be noted that not all impediments to the subdividing of land result from the subdivision regulations. The subdivision regulations address the shape and design of lots and their relationship to the street. However, minimum lot size requirements are not contained within the subdivision regulations; they are within the Comprehensive Zoning Ordinance. Thus, while those types of requirements affect the ease of subdividing and developing land and the number of dwelling units that can be built upon a property, they are not addressed within this document.

2. Updates Since Last Land Use Committee Meeting (July 27th, 2023)

During the drafting process and following the previous Land Use Committee meeting, CPC staff received several comments from the Faubourg Marigny Improvement Association on transparency, public input, and Executive Director authority issues. Some issues have been acknowledged by staff and appropriate modifications to the proposed new regulations have been made to address them:

- Need to allow for greater transparency and opportunity for input on subdivisions that do not require Commission hearing.
CPC staff will start using the Notice Me electronic notification system even for administrative level reviews. Further, the ratification list will now include under which Approval Policy each subdivision is being considered.
- Concerns that the Commission would no longer have the express right to call for a public hearing on any subdivision if deemed necessary and in the best interest of the public.
Section 2.7 was added to allow the Commission to call for a public hearing when they see fit. That provision had accidentally been removed from the draft.
- Confusion about the ratification of administratively approvable subdivisions.
The subdivision regulations provide rules as to what can be administratively approved or not. What meets the criteria for administrative approval is added to the ratification list and presented to the Commission between time of submittal and final approval. If the Commission deems that a subdivision that is on the ratification list is not administratively approvable, it is heard by the Commission instead, at a public hearing, before being given final approval. The ratification language in the existing regulations is not clear as to when the ratification is supposed to happen. The proposed regulations clarify that it needs to happen before final approval.
- Concerns that the Executive Director's actions in administratively approving subdivisions will no longer be appealable.
The Executive Director can only grant administrative approval when authorized to do so by the Commission through ratification of a subdivision. The Commission's determination that a subdivision application is eligible for administrative approval (or ratification) may be appealed to the City Council within 30 days of such a decision. Once the Commission determines that a subdivision application is eligible for administrative approval by ratifying the subdivision, the Executive Director's granting of administrative approval is a ministerial action that may not be appealed.
- Concerns that submission of a mortgage certificate and consent of any lien holders will no longer be required to be submitted for final approval.
That authorization will now be part of the application form. New language will be added to the application form and an attestation that the owner has approval of their lender will be required. This new language is in Section 3.2.3.a of the proposed regulations.
- The Proposed Regulations have eliminated the requirement that the applicable neighborhood association receive notice of subdivision-related Commission hearings and appeals (Current Regs, Section 3.1.3. deleted.)
That was a mistake and we edited that back in section 3.2.7.
- Elimination of the "Reconsideration" option on subdivisions acted on by the Commission in instances where circumstances or conditions have substantially changed, inaccurate data was use in analyzing the case, or additional information becomes available justifying re-examination (Current Regs, Section 3.2.6.deleted)

Section numbering has been modified, that language is now in Section 3.2.14.

- The proposed regulations have reduced the notice provision for public hearings from three publications over a two-week period to only one single publication (Current Regs, Section 3.1.3., Proposed Regs, Section 3.2.7.).

That was a mistake, copy and paste error, it was added back in section 3.2.7.

- Concern that the criteria permitting administrative approval of minor subdivision in the new Approval Policy “B” (Proposed Regs, Section 2.2.) appears to conflict with the State Statutes in that it does not fall within either one of the two categories under which the State Statutes permit administrative approvals. Specifically, the Statutes requires that in order to be eligible for administrative approval, a subdivision must comply with all provisions of the subdivision regulations and the applicable zoning ordinances (RS 33, Section 113.1.), yet the criteria for administrative approval under the new Approval Policy “B” requires that it comply only “as nearly as is practical” with the subdivision regulations and the CZO (Proposed Regs, Section 2.2.3.)

- The original draft of the proposed subdivision regulations kept the existing language pertaining to current Policy E (which is becoming Policy B in the new regulations). That Policy currently allows administrative approval of minor subdivisions proposing new lot lines that separates buildings constructed prior to 1929, provided that there is evidence that both structures predate 1929 (date of the first Zoning Ordinance), that the request to separate buildings located on the same lot involves only main/principal buildings, that the proposed side lot lines comply as nearly as possible with the Subdivision regulations and the CZO, that the proposed lots are at least 1,800 square feet, and that the proposed lots are not in excessive variation of the neighborhood norm. As part of this Policy, which essentially allows to create separate lots of record for two historic principal structures sitting on the same lot, the Executive Director or the Commission may waive minimum lot size requirements of the CZO (depth, width, area and yard setbacks). Building Code requirements such as minimum side yard setbacks or erection of a firewall at the property line cannot be waived. Any doubtful case that does not meet all the above criteria must be referred to the Commission. That Policy is not applicable to the Vieux Carre, for which all subdivisions automatically are heard by the City Planning Commission.

Seeing as the current Policy in place appears to conflict with State Statutes, staff modified the language in this newest draft, which would make all those subdivisions have to be heard by the City Planning Commission. (Sections 2.2.3, and 2.2.4)

Other suggested revisions made by FMIA were heard by CPC staff, but staff determined they did not necessitate changes to the subdivision regulations:

- The regulation language was changed, and the Commission will no longer be the party authorized to interpret the subdivisions regulations.

CPC staff stresses that it is impossible to administer day to day subdivision matters at commission level as questions regarding the subdivision regulations come daily. To not paralyze the review of subdivisions, we need a staff allowed to interpret what the regulation means. This is the same process as in Safety and Permits where the Director has authority over interpretation of the Zoning Ordinance. However, any interpretation from the Executive Director can be appealed to the Commission.

- Suggestion that CPC staff share their internal log of incoming subdivisions to get public knowledge at the earliest possible in the process.
While staff agreed to increase public knowledge by using the Notice Me tool for every submitted subdivision, our position is that our log is an internal document that is just meant to be used by the administrator to keep track of incoming application before they are docketed and assigned to a planner. It is not a clean document that should be public view because it is too prone to contain inaccurate information: it may include notes to each case relative to the anticipated review type, tentative CPC hearing date and assigned planner, all of which are subject to change. Before an application has been formally reviewed for completeness, has been docketed, and assigned to a planner, that log could likely contain incorrect information and be too confusing for public view.
- The Executive Director will now be able to unilaterally waive any of the requirements pertaining to the submission of subdivision survey details.
The proposed regulations include a list of all mandatory submittals (Section 3.2.3.a through e) and additional items as required depending on the subdivision type (section 3.2.3.f). The statement that the Executive Director may modify the development plan content requirements as appropriate given the nature of the subdivision is located under that particular section 3.2.3.f and is necessary because that list includes everything that could, potentially be required to show on a survey, including a lot of things that are not useful or applicable to most surveys (such as utility lines, landscape, etc.). Section 5.1 lists all subdivision survey requirements that must be submitted for final approval of a subdivision. That list also includes everything that could possibly be required. However, not all subdivisions require the same level of complex information shown on the survey.
- Section 1.9.1 of the subdivision regulations being removed. That section currently states that it shall be the duty of the Director of the City Planning Commission to enforce the requirement that an owner of a land being subdivided shall forfeit and pay a penalty of 500 hundred dollars for each lot transferred prior to the subdivision being approved and recorded.
Staff decided to tone down that statement and replace it with “The Executive Director shall be authorized to enforce these requirements...”. There is in reality no mechanism for the Executive Director to enforce that requirement, it has never been done before, and there is a doubt about the legality of allowing the City to stop private sales. The proposed language would therefore prevent the regulation from requiring something of our staff that we cannot do.
- The Proposed Regs will no longer require that a 20-foot wide “buffer planting strip” where a residential subdivision adjoins land zoned or used for industrial or commercial use (Current Regs, Section 5.7.5 has been deleted.)
Setbacks and buffer landscape requirements are zoning requirements, all of which already exist in the CZO.

3. Summary of Revisions by Theme

Transparency/public disclosure/opportunity for comments/public input

- Application materials
 - Establishes a Neighborhood Participation Program (NPP) requirement for major subdivisions.
 - Schematic development plans may be required with application on a case-by-case basis, as determined by the ED. Development plans may be required for subdivisions that create unusual lot configurations.
- Improving administratively approvable subdivisions public disclosure
 - Start the use of the Notice Me tool even for administrative level reviews.
 - Include under which Approval Policy each subdivision is being considered on the ratification list.
- Ratification
 - The Commission's ratification of staff actions is modified such that the Commission is ratifying the staff's determination whether an application is eligible for administrative approval, not the approval itself. This ratification is to be made within 60 days of the application being filed. The Commission will no longer ratify the certification of subdivisions after the fact. CPC staff has already been operating in that manner for the past few years since the issue was brought up, though the language still needs to be clarified in the regulations.
 - The regulations now state that once the Commission has ratified a decision to administratively approve a subdivision, that subdivision is allowed by-right and analogous to a permitted use in the Comprehensive Zoning Ordinance.

ED Authority

- Interpretations:
 - Interpretations of the meaning/intent of the regulations are now made by CPC Executive Director, not the Commission. The Executive Director's decision may be appealed to the Commission.

User friendliness

- Formatting/Miscellaneous
 - Revised dated and cumbersome language throughout the entire regulations, align it with the CZO.
 - Reorganized sections to improve clarity, legibility, and ease of use.
 - Added graphics and flow charts to illustrate requirements.

Staff workload

- Application materials
 - The application form will include an attestation that the applicant has consent from all mortgage holders and/or lien holders. No mortgage certificates or consent letters will be required on the back end of the review process anymore, which currently puts a burden on staff as they have to be the middleman between the land owner and their lender.

Scope and Efficacy

- Enforcement
 - Notes that the City will not recognize any lots that are not approved pursuant to the subdivision regulations. This replaces the previous, fine-based enforcement mechanism, which was rarely, if ever, used.
- Interpretations
 - Interpretations of the meaning/intent of the regulations are now made by CPC Executive Director, not the Commission. The Executive Director's decision may be appealed to the Commission.
- Waivers
 - Creates three approval standards for waivers of subdivision regulations.
- Review Policies
 - Revised review policies to now include:
 - Policy A (which encompasses most minor subdivision applications creating compliant lots and which replaces Policies A and B in the current regulations)
 - Policy B (which is an updated version of the current regulations' Policy E), has been revised to allow for otherwise substandard lots to be created to accommodate the locations of buildings that are no longer present, in addition to existing buildings. It also now requires all CZO waivers to be granted by BZA. Current sub regs states that the ED or Commission may waive minimum lot size requirements of the CZO for lots approved under this policy. State Statutes don't allow CPC to grant waivers even under this Policy because it states that a subdivision must comply with all provisions of the applicable zoning ordinance (RS33, Section 113.1.)
 - Policy C (which is a new policy that is based on statutes in state law regarding new lots resulting from expropriation of property)
 - Policy D (which is for major subdivisions that do not create a street/infrastructure)
 - Policy E (which is for major subdivisions that create a street/infrastructure)
 - Policy F (which accommodates subdivision applications that accompany planned developments)
 - PAC review requirement only for subdivisions that propose a new right-of-way or closure of an existing right-of-way.
 - Creation of flow charts to illustrate review process.
- Application materials
 - The application form will include an attestation that the applicant has consent from all mortgage holders and/or lien holders. See above under "Staff Workload."
 - The Executive Director will now be able to unilaterally waive any of the requirements pertaining to the submission of subdivision details. That list includes everything that could potentially be required to show on a survey, including a lot of things that are not useful or applicable to most surveys (like utility lines). Not all subdivisions require the same level of complex information shown on the survey, so we need flexibility to be able to not make it too difficult.
- Recertification

- Defines that re-certification may only occur within 6 months of certification. The current regulations do not specify for how long an application may be recertified as opposed to re-filed as a new application.
- Final Subdivision Plan Requirement
 - Added more direction for covenants and agreements related to common space, recreational areas, communal facilities within a proposed subdivision. Added language to require that the responsible party for the care and maintenance should be a Homeowner’s Association (HOA) or a similar entity that has a long-term interest in the subdivision.
- Reconsideration
 - Added Section 3.2.12 to allow reconsideration of subdivisions by the City Planning Commission. Proposed language aligns with existing language in the CZO that applies to zoning changes and conditional uses.
- Expiration
 - Added language to align with the CZO to allow requests for extension made after the original period of validity but within one (1) year of the original period of validity to be considered by the City Planning Commission.
- Design Requirements
 - Created language to promote connectivity within existing neighborhoods and proposed subdivisions: consistency in block lengths, or maximum block lengths when no predominant lengths and pattern in the vicinity, continuation of existing streets, restriction on cul-de-sacs (dead end streets)
 - Clarified language about when multi-frontage lots may be acceptable (section 4.3.5)
 - The current regulations are silent about whether split-zoned lots are acceptable. Prior to the adoption of the new CZO, split-zoned lots were regularly approved. The new CZO implicitly discourages split-zoned lots, so the staff has begun recommending that subdivisions creating split-zoned conditions be tied to a requirement that the split-zoning be remedied through a zoning change or minor map adjustment. The new regulations will codify this current practice, requiring zoning changes/minor map adjustments for new split-zoned lots except in circumstances where the Commission finds the requirement is not necessary.
 - The current regulations are silent as to whether irregularly shaped lots (L-shaped, T-shaped) and similar lot shapes are acceptable. However, there is language that requires side lot lines to be parallel to front lot lines, which in practice precludes non-rectangular lots. The staff has recently attempted to create flexibility by allowing “minor” L-shapes but not “major” L-shapes. This approach is codified in the draft regulations in section 4.3.2.

4. Summary of Revisions by Articles

Article 1

- Statements of Policy
Aligned statements of policies with the Master Plan
- Enforcement

Notes that the City will not recognize any lots that are not approved pursuant to the subdivision regulations. This replaces the previous, fine-based enforcement mechanism, which was rarely, if ever, used.

- Interpretations
Interpretations of the meaning/intent of the regulations are now made by CPC Executive Director, not the Commission. The ED's decision may be appealed to the Commission.
- Waivers
Creates three approval standards for waivers of subdivision regulations.

Article 2

- Review Policies
Revised review policies to now include:
 - Policy A (which encompasses most minor subdivision applications creating compliant lots and which replaces Policies A and B in the current regulations)
 - Policy B (which is an updated version of the current regulations' Policy E), has been revised to allow for otherwise substandard lots to be created to accommodate the locations of buildings that are no longer present, in addition to existing buildings. It also now requires all CZO waivers to be granted by BZA. Current sub regs states that the ED or Commission may waive minimum lot size requirements of the CZO for lots approved under this policy. State Statutes don't allow CPC to grant waivers even under this Policy because it states that a subdivision must comply with all provisions of the applicable zoning ordinance (RS33, Section 113.1.)
 - Policy C (which is a new policy that is based on statutes in state law regarding new lots resulting from expropriation of property)
 - Policy D (which is for major subdivisions that do not create a street/infrastructure)
 - Policy E (which is for major subdivisions that create a street/infrastructure)
 - Policy F (which accommodates subdivision applications that accompany planned developments)
- PAC review requirement only for subdivisions that propose a new right-of-way or closure of an existing right-of-way.

Article 3

- Application materials
 - Establishes a Neighborhood Participation Program (NPP) requirement for major subdivisions.
 - Schematic development plans may be required with application on a case-by-case basis, as determined by the Executive Director. Development plans may be required for subdivisions that create unusual lot configurations.
 - The application form will include an attestation that the applicant has consent from all mortgage holders and/or lien holders. No mortgage certificates or consent letters will be required.
- Ratification

- The Commission’s ratification of staff actions is modified such that the Commission is ratifying the staff’s determination whether an application is eligible for administrative approval, not the approval itself. This ratification is to be made within 60 days of the application being filed. The Commission will no longer ratify the certification of subdivisions after the fact.
- The regulations now state that once the Commission has ratified a decision to administratively approve a subdivision, that subdivision is allowed by-right and analogous to a permitted use in the Comprehensive Zoning Ordinance.
- Recertification
Defines that re-certification may only occur within 6 months of certification. The current regulations do not specify for how long an application may be recertified as opposed to re-filed as a new application.
- Final Subdivision Plan Requirement
Added more direction for covenants and agreements related to common space, recreational areas, communal facilities within a proposed subdivision. Added language to require that the responsible party for the care and maintenance should be a Homeowner’s Association (HOA) or a similar entity that has a long-term interest in the subdivision.
- Reconsideration
Added Section 3.2.12 to allow reconsideration of subdivisions by the City Planning Commission. Proposed language aligns with existing language in the CZO that applies to zoning changes and conditional uses.
- Expiration
Added language to align with the CZO to allow requests for extension made after the original period of validity but within one (1) year of the original period of validity to be considered by the City Planning Commission.

Article 4

- Design Requirements
 - Created language to promote connectivity within existing neighborhoods and proposed subdivisions: consistency in block lengths, or maximum block lengths when no predominant lengths and pattern in the vicinity, continuation of existing streets, restriction on cul-de-sacs (dead end streets)
 - Clarified language about when double frontage lots may be acceptable.
 - The current regulations are silent about whether split-zoned lots are acceptable. Prior to the adoption of the new CZO, split-zoned lots were regularly approved. The new CZO implicitly discourages split-zoned lots, so the staff has begun recommending that subdivisions creating split-zoned conditions be tied to a requirement that the split-zoning be remedied through a zoning change or minor map adjustment. The new regulations will codify this current practice, requiring zoning changes/minor map adjustments for new split-zoned lots except in circumstances where the Commission finds the requirement is not necessary.
 - The current regulations are silent as to whether L-shaped, T-shaped, and similar lot shapes are acceptable. However, there is language that requires side lot lines to be parallel to front lot lines, which in practice precludes non-rectangular lots. The staff

has recently attempted to create flexibility by allowing “minor” L-shapes but not “major” L-shapes. This approach is codified in the draft regulations.

Formatting/Miscellaneous

- Revised dated and cumbersome language throughout the entire regulations, align it with the CZO.
- Reorganized sections to improve clarity, legibility, and ease of use.
- Added graphics and flow charts to illustrate requirements.