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CITY AND COUNTY OF HONOLULU

# Charter

*City and County of Honolulu*

1959



OFFICE OF MUNICIPAL SERVICES  
City and County of Honolulu  
Honolulu, Hawaii 96813

*Charter*  
*City and County of Honolulu*  
**1959**

REVISED — 1962

## FOREWORD

Publication of this annotated edition of the Charter of the City and County of Honolulu (Act 261, Session Laws of Hawaii, 1959) is a joint undertaking of the Office of the City and County Clerk and of the Corporation Counsel.

The annotations to the body of the Charter usually refer to opinions of this office, interpreting the Charter provisions. Some opinions advise City agencies as to which pre-Charter statutes have been superseded by Charter provisions. The annotations also show the effect of the four amendments of the Charter, made by the Legislature.

There are, as yet, no court decisions or opinions of the Attorney General, construing the provisions of the Charter.

Persons desiring further information about City government should also consult the Administrative code (Ordinance 1781), enacted pursuant to the provisions of Section 4-102 of this Charter, and the Rental Policy of the City, adopted on January 12, 1960 by an oral report of the Council's Committee of the Whole, pursuant to Section 5-403(k) of this Charter.

**NORMAN K. CHUNG**

*Corporation Counsel*

April 29, 1960

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OFFICE OF COUNCIL SERVICES  
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**PREAMBLE**

In order to secure the benefits of an improved form of municipal self-government and to advance in that righteousness which is the life of our land, we, the people of the City and County of Honolulu, do hereby adopt this **CHARTER OF THE CITY AND COUNTY OF HONOLULU**.

# CHARTER

## CITY AND COUNTY OF HONOLULU

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### ARTICLE I

#### INCORPORATION, LIMITS AND FORM OF GOVERNMENT

**Section 1-101. Incorporation**—The people of the city and county of Honolulu shall be and continue as a body politic and corporate by the name of "city and county of Honolulu," hereinafter in this charter called "city". By that name it shall have perpetual succession.

**Section 1-102. Geographical Limits**—All that portion of the State of Hawaii commonly known as the island of Oahu, and all other islands in the State of Hawaii and the waters adjacent thereto, not included in any other county, shall constitute the city and county of Honolulu.

Note: Act 16, SLH 1959, provides that in emergencies the governing body of a county may establish an emergency temporary location of government.

**Section 1-103. Form of Government**—The form of government provided by this charter shall be known as the mayor-council form.

### ARTICLE II

#### POWERS OF THE CITY

**Section 2-101. Powers**—To promote the general welfare and the safety, health, peace, good order, comfort and morals of its inhabitants, the city shall have and may exercise all powers necessary for local self-government, and any additional powers and authority which may hereafter be granted to it, except as restricted by laws of this State of general application. The enumeration of express powers in this charter shall not be deemed to be exclusive. In addition to the express powers enumerated herein or implied thereby, it is intended that the city shall have and may exercise all powers it would be competent for this charter to enumerate expressly.

The city has the power to trim trees growing on or extending over public streets. Op 59-144. Act 72, SLH 1959, amending §149-86, RLH 1955, grants additional powers to the Council to regulate traffic over private streets and is not inconsistent with the charter. Op 59-205. Act 245, SLH 1959, relates to the awarding of concessions and defines the framework within which the council may exercise its power to establish policy governing the rental or leasing of city property and is not inconsistent with the charter. Op 59-207.

ARTICLE III  
LEGISLATIVE BRANCH

CHAPTER 1  
COUNCIL

*to be amended!*

**Section 3-101. Legislative Power**—The legislative power of the city shall be vested in and exercised by the city council, except as otherwise provided by this charter.

Communications and petitions involving legislative matters should be referred to the council. Op 59-94. Requests for building code variances should be referred to the council. Op 59-94. Requests for drop curb variances should be referred to the council. Op 59-94. The legislative body of the city and county of Honolulu should, after July 1, 1959, be called the city council and the members thereof, councilmen. Op 59-98. Communications from the department of public instruction involving legislative matters should be referred to the council. Op 59-100. Act 72, SLH 1959, amending §149-86, RLH 1955, grants additional powers to the council to regulate traffic over private streets and is not inconsistent with the charter. Op 59-205. Act 176, SLH 1959, amending § 149-86, RLH 1955, relating to powers of the board of supervisors by adding a paragraph relating to the sale of land is not inconsistent with this charter. Op 60-52. Act 94, SLH 1959, amending §149-86, RLH 1955, relating to general power of the council is not inconsistent. Op 60-54.

Note: Act 26, SLH 1959, authorizes the council to appropriate funds for public celebrations. Act 181, SLH 1959, amending §142-17 and §142-21, RLH 1955, extends the jurisdiction of the council to include the entire county in the construction of sidewalks and curbs. Act 188, SLH 1959, provides that the council may authorize the county band to travel to any other county or abroad for the purpose of creating goodwill. Act 235, SLH 1959, as amended by Act 24, SS 1959 relates to the issuance of municipal bonds with the approval of the council.

**Section 3-102. Number, Election and Terms of Office of Councilmen**—The council shall consist of nine members. One member shall be elected from each of the three districts hereinafter provided and six shall be elected from the city at large. The terms of office of councilmen shall be four years beginning at twelve o'clock meridian on the second day of January following their election.

This provision is legally valid since a statute is presumed legal until the contrary is shown beyond a reasonable doubt. Op 59-165.

**Section 3-103. Council Districts**—The six council districts, each comprised of the respective representative district or districts provided by law for the election of representatives to the legislature, shall be as set forth in the following schedule:

<i>Council District</i>	<i>Representative District</i>
A	Eighth
B	Ninth
C	Tenth

Note: The word "six" in the first line should have been changed to "three" upon the enactment of Act 261, SLH 1959, as there are but three council districts.

**Section 3-104. Qualifications of Councilmen**—To be eligible for election or appointment to the council, a person must be a citizen of the United States and have been a duly qualified elector of the city for at least two years immediately preceding his election or appointment, and, to be eligible for election or

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appointment from a district, must also have been a resident of such district for at least one year immediately preceding his election or appointment. Any councilman who removes his residence from the city or from the district from which he was elected or appointed shall, by that fact, be deemed to have vacated his office.

**Section 3-105. Vacancy in Office**—A vacancy in the office of any councilman shall be filled in the following manner:

(a) If the unexpired term is less than one year, the remaining members of the council shall elect a successor with requisite qualifications to fill the vacancy for the unexpired term. Vacancies shall be filled only at a regular meeting of the council after reasonable notice of intent to fill the vacancy has been given to all remaining members of the council by the presiding officer. Should the council fail to fill any vacancy within thirty days after its occurrence, the mayor shall appoint a successor to fill the vacancy for the unexpired term.

(b) If the unexpired term is for one year or more, the vacancy shall be filled by special election, to be called by the council within ten days and to be held within sixty days after the occurrence of the vacancy. At such time the electors of the city or, should the vacant office be that of a district councilman, the electors of that district, shall elect a successor to fill the vacancy for the remainder of the term. If any special or general election is to be held in the city after thirty days and within one hundred eighty days after the occurrence of the vacancy, then the election shall be held in conjunction with such other election.

Act 94, SLH 1959, amending §149-86, RLH 1955, relating to general power of the council is not inconsistent. Op 60-54.

**Section 3-106. Salaries of Councilmen**—The salary of each councilman shall be \$4,200.00 per annum, except that the chairman shall receive an additional sum of \$600 per annum. The council may change the salary of councilmen by ordinance but no increase of salary shall be effective during the term in which an increase is enacted. No increase of salaries shall be enacted during the period between the date of the city general election and the second day of January following

Note: Act 255, SLH 1959, fixed the councilmen's salary at \$6,000 per annum, and by its terms supersedes §3-106 as to the amount of salary to be paid.

**Section 3-107. Removal of Councilmen**—Any councilman may be removed for malfeasance, misfeasance or non-feasance in office, or for interference with the performance of the duties of any officer or employee in any executive agency of the city government. The supreme court of the State shall constitute a board of impeachment in any proceeding for the removal of a councilman who may be charged on any of the foregoing grounds. The charges shall be set forth in writing in a petition for impeachment signed by not less than one hundred qualified electors of the city for the removal of a councilman at large, or of a district for the removal of a district councilman and said signatures shall be necessary only for the purpose of filing the petition. The petition having once been filed, hearings shall be held on all such charges. The board of

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**Sec. 3-108**

impeachment may appoint a master and invest him with power to investigate the charge and report thereon to the board. If the board sustains the charge, the councilman shall be deemed removed from office.

**Section 3-108. Organization of Council; Officers; Rules; Employees—**

1. The council shall meet in the council room at the city hall for its organization at twelve o'clock meridian on the second day of January following its election, or on the following day if the second day be a Sunday, at which time it shall elect one of its councilmen-at-large as chairman and presiding officer of the council. It shall also elect one of its councilmen-at-large as vice-chairman who shall act as the presiding officer in the event of the chairman's absence or disability. The council shall appoint a presiding officer pro tempore from its own members in the event of the absence or disability of both the chairman and vice-chairman. All councilmen shall have the right to vote in the council at all times. A majority of the entire membership of the council shall constitute a quorum and, except as otherwise provided, the affirmative vote of a majority of the entire membership shall be necessary to take any action.

2. The council shall adopt rules governing its officers and employees, the organization of committees and the transaction of business.

3. The council shall keep a journal of its proceedings in which the ayes and noes shall be entered as required by this charter or at any other time upon the demand of any member.

4. The council may, upon an affirmative vote of at least two-thirds of its entire membership, suspend without pay for not more than one month any member for disorderly or contemptuous behavior in its presence. The presiding officer or the council by a majority vote may expel any other person who is guilty of disorderly, contemptuous or improper conduct at any meeting.

5. The presiding officer of any committee of the city council or a majority of the committee may expel any person who is guilty of disorderly, contemptuous or improper conduct at any committee meeting.

6. The council may appoint and fix the salaries of such committee clerks and other assistants as may be necessary.

7. The council shall hold regular meetings on the first Tuesday of every month or on the following day if such Tuesday be a holiday. It may also hold other regular meetings and special meetings on any other day. All meetings of the council shall be open to the public and every action taken by the council, other than the confirmation of appointees, shall be by open ballot. With the exception of deliberations relating to confirmation of appointees, or consultations with the corporation counsel on claims where premature public disclosure of information would adversely affect the city's interest, all council committee meetings shall be open to the public. The council may adjourn to any meeting place, provided notice of the time and place of the meeting is published at least three days prior to such meeting in a daily newspaper of general circulation in the city and notice is also given to all council members at least three days prior to the meeting.

The mayor continues as the presiding officer of the council until January 2, 1961. Op 59-99. Employees of the council are subject to civil service provisions. Op 59-163.

**Section 3-109. Applicability of Certain General Provisions**—The council and its employees shall be subject to the provisions of this charter relative to the procurement of materials, supplies, equipment and services and the disposal of personal property.

**Section 3-110. Mayor May Appear Before Council**—The mayor may attend any meeting of the council or any of its committees and may express his views. He may propose any motion, resolution or ordinance, or amendments thereto, but shall have no right to vote thereon.

**Section 3-111. Condemnation**—The council shall by resolution determine and declare the necessity of taking property for public purposes, describing the property and stating the uses to which it shall be devoted.

**Section 3-112. Annual Operating Budget**—The council shall enact an annual operating budget ordinance in the form submitted by the mayor.

**Section 3-113. Revenue Budget**—The council, at the meeting at which the annual operating budget ordinance is enacted, shall also enact such measures as will yield sufficient moneys, together with available surplus and other available moneys, to balance the budget.

**Section 3-114. Capital Program and Capital Budget**—The council shall adopt a capital program and enact a capital budget ordinance annually and provide for the financing thereof.

The council may amend the capital program and capital budget ordinance at any time, pursuant to the procedures set forth in §9-203 of charter. Op 59-216.

**Section 3-115. Audit**—

1. The council shall provide for the continuous verification of receipts and expenditures of all agencies of the city.

2. Within ten days after the close of each fiscal year or at the close of every second fiscal year if the council should so decide, and at any other time as may be deemed necessary, the council shall cause an independent audit of all city funds and accounts to be made by a certified public accountant or a firm of certified public accountants. The scope of the audit shall be in accordance with the terms of a written contract to be signed by the presiding officer of the council which shall provide for the completion of the audit within a reasonable time after the close of the fiscal year. A copy of the audit report shall be filed with the city clerk and shall be of public record.

The department of water is subject to verification of receipts and expenditures as may be provided by the council. Op 59-61. The right and responsibility to audit city funds is not exclusively vested in the council. Op 59-149. The effective date of this provision is January 2, 1961. Op 59-149.

**Section 3-116. Adoption of Pay Plan**—All persons employed by the city or any of its boards or commissions, whether as officers or otherwise, except those whose pay is fixed in this charter or otherwise provided for shall be paid in accordance with a pay plan recommended by the mayor and enacted with or without modification by ordinance. The pay plan for those persons holding positions in the position classification plan shall be in accordance with section 5-608 of this charter.

**Sec. 3-117**

The salaries of the chief engineer and traffic engineer will be fixed by the council upon recommendation by the mayor. Op 59-52.

Note: The compensation law of the state will apply. (§5-608, charter)

**Section 3-117. Creation of General Debt—**

1. The council by the affirmative vote of at least two-thirds of its entire membership may authorize the issuance of general obligation bonds not to exceed the amount and only for the purposes prescribed by the Organic Act.

2. Each bond authorization shall relate to not more than one issue and shall specify the purpose for which moneys are to be borrowed and the maximum amount of bonds to be issued for that purpose. This provision shall not be construed to prohibit the sale and issuance of single bond issues for multiple purposes, each of which purposes has been authorized.

3. The council may provide for the refunding of general obligation bonds.

**Section 3-118. Creation of Special Assessment Debt—**The council may authorize the issuance of improvement bonds to finance assessable public improvements in the manner provided by this charter and by ordinance.

The authorization to issue improvement bonds should be by resolution and not by ordinance. Op 59-150.

**Section 3-119. Revenue Bond Indebtedness—**The council may authorize the issuance of revenue bonds for the purpose of initiating, constructing, acquiring, extending, replacing or otherwise improving any revenue-producing facility as provided by law and may provide for the refunding of such bonds.

**Section 3-120. Temporary Borrowing—**

1. The council may borrow in any fiscal year in anticipation of revenues to be derived from taxes for that year, and for any of the purposes to which the revenues are appropriated. No such borrowing shall be in excess of twenty-five per cent of the amount of the uncollected taxes of that year.

2. When any warrants are presented to the city for payment and the same are not paid for want of funds, the director of finance shall issue a warrant note, equal in amount to the face value of the warrant or warrants so presented for payment. The warrant note shall be in a form and shall be due at a date prescribed by the director of finance. It shall bear interest at the lowest obtainable rate per annum. The notes shall be a first charge on the moneys of any fund against which the warrants are issued.

3. The council upon recommendation of the mayor may authorize the director of finance to obtain temporary loans from the State.

**Section 3-121. Investigation—**

1. The council or any authorized committee thereof shall have the power to conduct investigations of:

(a) The operation of any agency or function of the city.

(b) Any subject upon which the council may legislate.

2. In investigations conducted by the council or by any committee of the council, the presiding officer shall have the right to administer oaths and in the name of the council to subpoena witnesses and compel the production of books and papers pertinent thereto. If any person subpoenaed as a witness, or to produce any books or papers called for by the process of the council shall

fail or refuse to respond thereto, or refuse to answer questions propounded by any member of the investigating body or its counsel material to the matter pending before such body, the circuit court upon request of the council shall have power to compel obedience to any process of the council and require such witness to answer questions put to him as aforesaid, and to punish as a contempt of the court, any refusal to comply therewith without good cause shown therefor.

False swearing by any witness shall constitute perjury and be punished as such, and whenever the council is satisfied that a witness has sworn falsely in any hearing or investigation, it shall report the same to the prosecuting attorney for prosecution.

3. In any investigation which concerns the alleged gross misconduct or alleged criminal action on the part of any individual, such individual shall have the right to be represented by counsel, the right of reasonable cross-examination of witnesses and the right to process of the council to compel the attendance of witnesses in his own behalf.

## CHAPTER 2 ORDINANCES AND RESOLUTIONS

**Section 3-201. Actions of the Council**—Every legislative act of the council shall be by ordinance. Non-legislative acts of the council may be by resolution and except as otherwise provided, no resolution shall have force or effect as law. The enacting clause of every ordinance shall be "Be it ordained by the people of the city and county of Honolulu:" and the enacting clause of every resolution shall be "Be it resolved by the council of the city and county of Honolulu:".

The temporary transfer of unencumbered funds from one division to another in the same department is not a reappropriation and may be effected by a resolution. Op 59-169. A transfer of funds from one capital improvement account to another is a reappropriation and must be effected by an ordinance. Op 59-192.

### **Section 3-202. Introduction, Consideration and Passage of Ordinances and Resolutions—**

1. Every proposed ordinance shall be initiated as a bill and shall be passed only after three readings on separate days. The vote on final passage shall be taken by ayes and noes and entered in the journal. Full readings of bills may be required by one-third vote of the entire membership of the council.

2. Every ordinance of the council shall embrace but one subject, which shall be expressed in its title. If an ordinance embraces any subject not expressed in its title, only that subject shall be void.

3. No bill shall be so amended as to change its original purpose. On the demand of at least four members, any bill shall, after amendment, be laid over for one week before its final reading. Every bill, as amended, shall be in writing before final passage.

4. When a bill fails to pass on final reading and a motion is made to reconsider, the vote on such motion shall not be acted upon before the expiration of twenty-four hours.

**Sec. 3-203**

5. Ordinances shall take effect on the date specified therein or, in the absence of such specification, upon approval thereof by the mayor.

6. Except as otherwise provided in this charter, resolutions may be adopted on one reading by the affirmative vote of a majority of the entire membership of the council taken by ayes and noes and entered in the journal. The reading shall be in full except by unanimous consent of all councilmen present, in which case the reading may be by title only.

7. Bills embracing (a) the fixing of special assessments for the cost of improvements, (b) the appropriation of public funds or the authorization of the issuance of general obligation bonds or (c) the imposition of a duty or penalty on any person, shall pass second reading by a vote taken by ayes and noes, and digests of such bills shall be advertised once in a daily newspaper of general circulation in the city, with the ayes and noes, at least three days before final reading by the council. Not less than three copies of such bills shall be filed for use and examination by the public in the office of the city clerk at least three days prior to the final reading thereof.

8. All ordinances shall be promptly advertised once by title only in a daily newspaper of general circulation in the city with the ayes and noes after enactment. Unless otherwise provided, resolutions need not be advertised either before or after adoption.

9. Resolutions authorizing proceedings in eminent domain shall not be acted upon on the date of introduction, but shall be laid over for at least one week before adoption. Such resolutions shall be advertised once in a daily newspaper of general circulation at least three days before adoption by the council. Not less than three copies of such resolutions shall be filed for use and examination by the public in the office of the city clerk at least three days prior to the adoption thereof. Upon adoption, every such resolution shall be presented to the mayor and he may approve or disapprove it pursuant to applicable provisions governing the approval or disapproval of bills.

10. Should the council find by a two-thirds vote of its entire membership the existence of an emergency due to a public calamity, the council may waive all of the requirements of this section pertaining to procedure, except those relating to the number of votes required for passage and recording of the vote in the journal.

Resolutions passed under the improvement district ordinance need not be referred to the mayor. Op 59-104. The readvertising of a bill prior to final reading is not necessary after a material amendment has been made. Op 59-117. A bill in its amended form must be in writing before it is passed on third reading. Op 59-117.

**Section 3-203. Submission of Ordinances to the Mayor—**

1. Every bill which has passed the council and has been duly authenticated by the city clerk and the presiding officer, shall be presented to the mayor for his approval. If he approves it, he shall sign it and it shall then become an ordinance. If he disapproves it, he shall specify his objections thereto in writing and return the bill to the city clerk with his objections within ten days (excluding Saturdays, Sundays and holidays) after receiving it. If he does not return it with his disapproval within that time, it shall take effect as if he had signed it. The objections of the mayor shall be entered at large in the journal of the council and the council may, after five and within thirty days after the bill has been

so returned, reconsider the vote upon the bill. If the bill, upon reconsideration, is again passed by the affirmative vote of not less than two-thirds of the entire membership of the council, the presiding officer shall verify that fact on the bill and when so certified, the bill shall then become an ordinance with like effect as if it had been signed by the mayor. If the bill fails to receive the vote of at least two-thirds of the entire membership of the council, it shall be deemed finally lost. The vote upon reconsideration shall be taken by ayes and noes and entered in the journal.

2. If any bill is presented to the mayor appropriating money, he may veto any item or items or portion or portions thereof by striking out or reducing the same. In the case of such a veto, the mayor shall append to the bill at the time of signing it a statement of the item or items or portion or portions thereof to which he objects and the reasons therefor, and the item or items or portion or portions thereof, so vetoed, shall not take effect unless passed notwithstanding the mayor's veto. Each item so vetoed may be reconsidered by the council in the same manner as bills which have been disapproved by the mayor.

**Section 3-204. Amendment, Revision or Repeal; Adoption of Codes by Reference—**

1. No ordinance shall be amended, revised or repealed by the council except by ordinance. No resolution shall be amended, revised or repealed except by resolution but a resolution may be superseded by a subsequent ordinance.

2. Any ordinance or resolution may be repealed by reference to its number or section number. Revisions or amendments may be made in the same manner but the same, or the section, subsection or paragraph thereof, revised or amended, shall be re-enacted at length as revised or amended; but when the amendment consists of adding new sections, subsections, paragraphs, or substituting a word, term, or number for another word, term, or number, it shall be sufficient to enact the new matter alone if reference thereto is made in the title.

3. Any code or portions thereof may be adopted by reference thereto by the enactment of an ordinance for that purpose. The code, or portions, need not be published in the manner required for ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the city clerk not less than fifteen days prior to the final reading thereof, and notice of the availability of said copies shall be published by the clerk.

**Section 3-205. Codification of Ordinances—**

1. Within two years of the effective date of this charter, the council shall cause a code to be prepared containing all of the ordinances of the city which are appropriate for continuation as law. The code may be prepared by the corporation counsel or the council may contract for its preparation by professional persons or organizations experienced in the revision and codification of ordinances or statutes.

2. The code may be adopted by reference by the passage of an ordinance for that purpose. No publication of the code shall be required, but not less than three copies of the code shall be filed for use and examination by the

**Sec. 3-301**

public in the office of the city clerk at least sixty days prior to the adoption thereof.

3. All proposed ordinances of general application introduced after the approval of the code shall be adopted as amendments of or additions to the code and by reference thereto.

**CHAPTER 3  
CITY CLERK**

**Section 3-301. Powers, Duties and Functions—**

1. The council shall appoint and fix the salary of the city clerk.

2. The city clerk shall:

(a) Be the clerk of the council.

(b) Take charge of, safely keep and dispose of all books, papers and records which may properly be filed in his office and keep in separate files all ordinances, resolutions and regulations and cumulative indices of the same, or exact copies thereof, enacted or adopted by the council.

(c) Have custody of the city seal, which shall be used to authenticate all official papers and instruments requiring execution or certification by the city clerk in the exercise of his office. A copy of the impress thereof, certified to be genuine, and also a copy of such seal when altered or changed by the council, shall be filed in the office of the secretary of the State.

(d) Conduct all elections held within the city pursuant to this charter or the laws of the State.

(e) Perform such other functions as required by this charter or by law.

3. The city clerk may appoint the necessary staff for which appropriations have been made by the council.

4. Subject to the provisions of this charter and applicable rules and regulations adopted thereunder, the city clerk shall have the same powers with respect to the personnel of his office as the department heads in the executive branch.

The elective office of the city clerk will be abolished after January 2, 1961. Op 59-53.

**ARTICLE IV  
EXECUTIVE BRANCH—GENERAL PROVISIONS**

**Section 4-101. Executive Power—**The executive power of the city shall be vested in and exercised by the executive branch, which shall be headed by the mayor, except as otherwise provided by this charter.

Communications and petitions relating to administrative matters should be referred to the mayor. Op 59-94. Communications from the department of public instruction involving administrative matters should be referred to the mayor. Op 59-100.

**Section 4-102. Organization—**Except as otherwise provided, within six months after the effective date of this charter, the mayor shall recommend and the council shall by ordinance adopt an administrative code providing for a complete plan of administrative organization of the executive agencies of the city government not inconsistent with the provisions of this charter. Upon

recommendation of the mayor, the council may by a two-thirds vote of its entire membership change, abolish, combine or re-arrange the executive agencies of the city government. Less stringent qualifications shall be required of department heads only by amendments to the pertinent provisions of the charter.

New functions may be assigned by the mayor to existing agencies, but to the extent that this is not practicable, the council by two-thirds vote of its entire membership may upon the recommendation of the mayor create additional departments. However, not more than twenty principal departments, excluding independent departments not under the supervision of the mayor or the managing director, shall exist at any one time.

The administrative organization for the management of a proposed municipal auditorium must comply with this provision. Op 59-183.

Note: The administrative code was adopted December 31, 1959. Ord. 1781.

**Section 4-103. Other Executive Agencies—**No executive board or commission shall be created after the effective date of this charter, except as recommended by the mayor and approved by the affirmative vote of two-thirds of the entire membership of the council.

The administrative organization for the management of a proposed municipal auditorium must comply with this provision. Op 59-183.

**Section 4-104. Urban Redevelopment and Urban Renewal Agencies—**Urban redevelopment and urban renewal agencies shall be as provided by law.

**Section 4-105. Creation of Advisory Committees—**The mayor or department heads, with the approval of the mayor, may each appoint advisory committees. Such advisory committees shall not exist beyond the term of office of the appointing authority. Their function shall be limited to counsel and advice. The members of advisory committees shall not be paid, but their authorized expenses shall be paid from appropriations to the appointing authority. Advisory committees shall have no employees but each appointing authority shall cause employees of the department to furnish such services as may be needed by the committees.

The administrative organization for the management of a proposed municipal auditorium must comply with this provision. Op 59-183.

**Section 4-106. Appointment and Removal of Officers and Employees—**

1. All department heads shall be appointed and may be removed by the mayor, except as otherwise provided by this charter.

2. Department heads may appoint the necessary staff for which appropriations have been made by the council.

3. No appointing authority shall appoint any person to any office or position exempted from civil service until satisfied by proper investigation that the person to be appointed is fully qualified by experience and ability to perform the duties of his office or position.

**Section 4-107. Powers and Duties of Heads of Executive Agencies—**

1. Subject to the provisions of this charter and applicable regulations adopted thereunder, the heads of the executive agencies of city government shall have the power and duty to take all personnel actions.

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2. Each head of an executive agency of city government may assign and reassign duties to employees and supervise the performance thereof.

3. Each head of an executive agency of city government may, subject to the approval of the mayor or the managing director, prescribe such rules as are necessary for the organization and internal administration of the respective executive agencies.

4. Regulations affecting the public as may be necessary to the performance of the functions assigned to executive agencies may be issued as authorized by this charter or by ordinance. Such regulations after public notice and public hearing and upon approval by the mayor, shall have the force and effect of law. Each head of an executive agency shall file in the office of the city clerk not less than three copies of such regulations. The regulations may be amended or repealed by the same process required for original promulgation.

5. Each head of an executive agency shall perform such duties not inconsistent with the duties of his office as may be assigned by the mayor.

## ARTICLE V

### EXECUTIVE BRANCH—MAYOR AND AGENCIES DIRECTLY UNDER THE MAYOR

#### CHAPTER 1

#### MAYOR

**Section 5-101. Election and Term of Office**—The electors of the city shall elect a mayor whose term of office shall be four years beginning at twelve o'clock meridian on the second day of January following his election.

**Section 5-102. Qualifications**—Any citizen of the United States not less than thirty years of age who has been a duly qualified elector of the city for at least three years prior to his election shall be eligible to fill the office of mayor. Upon removal of his residence from the city, the mayor shall by that fact be deemed to have vacated his office.

**Section 5-103. Compensation**—The salary of the mayor shall be \$20,000.00 per annum which shall be subject to change by the council. The salary of any incumbent shall be reduced only in the event that a general reduction in salaries of all city officers and employees is simultaneously effected.

Note: Act 255, SLH 1959 .also establishes the mayor's salary at \$20,000.

**Section 5-104. Powers, Duties and Functions**—The mayor shall be the chief executive officer of the city. He shall have the power to:

(a) Except as otherwise provided, exercise direct supervision over all agencies enumerated in this article and other agencies as he may deem desirable and through the managing director exercise supervision over all other executive agencies of the city. He shall provide for the coordination of all administrative activities and see that they are honestly, efficiently and lawfully conducted.

(b) Appoint the necessary staff for which appropriations have been made by the council.

(c) Create or abolish positions but a monthly report of such actions shall be made to the council.

(d) Make temporary transfers of positions between departments or between subdivisions of departments.

(e) Recommend to the council a pay plan for all persons employed by the city or any of its boards and commissions, whether as officers or otherwise, except those whose pay is fixed in this charter or otherwise provided for.

(f) Appoint a personal representative who shall, subject to his direction, perform such ceremonial functions of the mayor's office and such other duties as he may designate.

(g) Submit an operating budget, a capital program and a capital budget annually to the council for its consideration and adoption.

(h) Sign instruments requiring execution by the city except those which the director of finance or other officer is authorized by this charter, ordinance or resolution to sign.

(i) Present messages or information to the council which in his opinion are necessary or expedient.

(j) In addition to the annual report, make periodic reports informing the public as to city policies, programs and operations.

(k) Call special sessions of the council.

(l) Veto ordinances, and resolutions authorizing proceedings in eminent domain.

(m) Have a voice but no vote in the proceedings of all boards provided for by this charter or by ordinance.

(n) Enforce the provisions of this charter, the ordinances of the city and all applicable laws.

(o) Exercise such other powers and perform such other duties as may be prescribed by this charter or by ordinance.

The salaries of the chief engineer and traffic engineer are fixed by the council upon recommendation of the mayor. Op 59-52. The council, upon the mayor's recommendation, can effect a transfer of funds between departments. Op 59-96. The mayor may create new positions. Op 59-97. Requests by the general public for services for which no appropriation has been made should be referred by the operating departments to the mayor for further disposition. Op 59-103. The mayor may abolish positions created by ordinance. Op 59-107. Until adoption of the operating budget ordinances pursuant to the charter, the approval of the council is required for purchases of equipment over \$50.00. Op 59-112. The mayor may create positions without the approval of the council. Op 59-115. The mayor may not make permanent transfers of positions. Op 59-115. The right and responsibility to audit city funds is not exclusively vested in the council and the mayor may under his power to exercise supervision over all executive agencies of the city cause an audit to be made. Op 59-149.

Note: Act 34, SLH 1959, amending §150-13, RLH 1955, relates to car allowances with the approval of the mayor. With respect to paragraph (e), the compensation law of the State will apply. (§5-608, charter)

**Section 5-105. Location of Office**—The mayor's office shall be in the city hall.

**Section 5-106. Contingency Fund**—The council shall provide in the annual operating budget a contingent fund of not less than \$12,000.00 to be expended by the mayor for such public purposes as he may deem proper.

**Section 5-107. Office of Information and Complaint**—There shall be in the office of the mayor an office of information and complaint which shall

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receive complaints and inquiries concerning city policies, programs and operations and promptly answer such complaints or inquiries.

**Section 5-108. Vacancy in Office—**

1. A vacancy in the office of mayor caused by death, resignation, removal or disqualification to hold office shall be filled as follows:

(a) If the unexpired term is for less than one year, the council shall, by a majority vote of all of the members, elect one of the councilmen-at-large to be mayor for the unexpired term, and a vacancy shall thereupon exist in the office of councilman-at-large.

(b) If the unexpired term is for one year or more, the vacancy shall be filled by a special election, to be conducted under the election laws of the State insofar as applicable and which shall be called by the council and held within sixty days after the occurrence of the vacancy. The electors of the city shall then elect a person with requisite qualifications to fill the vacancy for the remainder of the term. If any special or general election is to be held in the city after thirty days and within one hundred eighty days after the occurrence of the vacancy, then the election shall be held in conjunction with such other election.

2. Pending the election of a mayor in case of a vacancy, or in the temporary absence from the State or temporary disability of the mayor, the managing director shall act as mayor. If the managing director should resign or be unable to act, the budget director shall then act as mayor.

After July 1, 1959, the managing director becomes the acting mayor during temporary absences of the mayor. Op 59-160.

Note: Act 94, SLH 1959, amending §149-86, RLH 1955, relating to general power of the council is not inconsistent. Op 60-54.

**Section 5-109. Removal of Mayor—**

1. The mayor may be impeached for malfeasance, misfeasance or non-feasance in office. The supreme court of the State shall constitute a board of impeachment in any proceeding for the removal of the mayor who may be charged on any of the foregoing grounds. The charges shall be set forth in writing in a petition for impeachment signed by not less than one hundred qualified electors of the city and said signatures shall be necessary only for the purpose of filing the petition. The petition having once been filed, hearings shall be held on all such charges. The board of impeachment may appoint a master and invest him with power to investigate the charge and report thereon to the board. If the board sustains the charge, the mayor shall be deemed removed from office.

2. The mayor may also be removed by recall which shall be initiated upon petition signed by registered voters equal in number to at least fifteen per cent of the votes cast for the office of mayor at the last preceding mayoralty election but signatures from any one representative district, as provided by law for the election of representatives to the territorial legislature, in excess of forty per cent of the total number required on a petition shall not be counted.

Each elector signing a recall petition shall add to his signature his residence, stating the representative district, and the date of signing. Signatures on a recall petition may be on separate sheets but each sheet shall have appended to it the affidavit of some person, not necessarily a signer of the petition, that

to the best of the affiant's knowledge and belief the persons whose signatures appear on the sheet are registered electors of the city, that they signed with full knowledge of the contents of the petition, and that their residences are correctly given.

A recall petition shall be tendered for filing to the city clerk. The clerk shall examine it to see whether it contains a sufficient number of apparently genuine signatures of registered voters. The clerk may question the genuineness of any signature or signatures appearing on the recall petition and if he finds that any such signature or signatures are not genuine, he shall disregard them in determining whether the petition contains a sufficient number of signatures. He shall also disregard any signature dated more than sixty days before the date the petition was tendered for filing. The clerk shall eliminate any sheet of the petition which is not accompanied by the required affidavit. The invalidity of any sheet of the petition shall not affect the validity of the petition if a sufficient number of signatures remains after eliminating such an invalid sheet. The clerk shall complete his examination of the petition within fifteen days and shall thereupon file the petition if valid or reject it if invalid.

As soon as the clerk has accepted a recall petition for filing, he shall notify the mayor that the petition has been filed. Upon receipt of such notice the mayor may resign from his office and thereupon the recall proceedings shall terminate.

If the mayor does not resign from his office within ten days after notice of the filing of such petition shall have been given to him, the clerk shall arrange a recall election. If a general or special city or territorial election is to be held not less than thirty days nor more than ninety days after the ten days have expired, the recall question shall be placed before the electors at such an election. Otherwise a special recall election shall be fixed for a date not earlier than thirty days nor later than ninety days after the ten days have expired. The mayor may resign at any time prior to the recall election and thereupon the election shall not be held.

The following question shall be presented to each elector in a recall election: "Shall (name of officer) be recalled and removed from the office of mayor?"

If a majority of the registered electors who vote on the question at a recall election shall vote "Yes", the mayor shall be deemed recalled and removed from office, but if a majority of the registered electors shall vote "No", he shall remain in office.

No person who has been removed from the office of mayor by a recall election or who has resigned from such an office after a recall petition directed to him has been filed, shall be eligible for election or appointment to any office of the city within two years after his removal or resignation.

No recall petition shall be filed against the mayor within the first or the last year of the term of his office or within six months after an unsuccessful recall election against him.

## **CHAPTER 2 CORPORATION COUNSEL**

**Section 5-201. Appointment and Removal**—There shall be a corporation counsel who shall be appointed by the mayor, with the approval of the council, and who may be removed by the mayor.

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**Section 5-202. Qualifications**—The corporation counsel shall be an attorney, licensed to practice and in good standing before the supreme court of the State, who shall have engaged in the practice of law in the State for at least five years.

**Section 5-203. Powers, Duties and Functions**—The corporation counsel shall be the chief legal adviser and legal representative of all agencies including the council and of all officers and employees in matters relating to their official powers and duties and he shall represent the city in all legal proceedings. He shall perform all other services incident to his office as may be required by law, this charter or by ordinance.

The attorney general no longer advises the Honolulu civil service commission and department. Op 59-133.

**Section 5-204. Special Deputies**—Special deputies may be appointed by the corporation counsel without cost to the city with the approval of the mayor.

**Section 5-205. Special Counsel**—

1. No special counsel shall be retained to represent the city or any officer, or executive agency, except as provided in this chapter.

2. The mayor or any councilman may retain special counsel in impeachment proceedings initiated against him or where the corporation counsel has disqualified himself to represent him. The council shall appropriate the necessary funds to pay reasonable fees for such legal services.

3. The council may, by two-thirds vote of its entire membership, authorize the employment of special counsel for any special matter presenting a real necessity for such employment. Any such authorization shall specify the compensation, if any, to be paid for said services.

**Section 5-206. Service of Legal Process**—Legal process against the city shall be served upon the corporation counsel or any of his deputies, and in default of finding the corporation counsel or any deputy, upon the mayor, and in default of finding the mayor, then upon any councilman. When such service is made upon any officer other than the corporation counsel, such officer shall promptly notify the corporation counsel.

## CHAPTER 3

### BUDGET DIRECTOR

**Section 5-301. Appointment and Removal**—There shall be a budget director who shall be appointed and may be removed by the mayor. The position of the budget director shall be in the office of the mayor.

Since the mayor's office may be said to constitute a department, the budget director (a member of the mayor's staff), and his staff are comparable to a division within a department. Op 59-84.

**Section 5-302. Qualifications**—The budget director shall have had a minimum of five years of training and experience in budgeting or related fields, at least three years of which shall have been in a responsible supervisory capacity.

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**Section 5-303. Powers, Duties and Functions**—The budget director shall:

- (a) Prepare the annual operating budget and ordinance under the direction of the mayor.
- (b) Prepare the annual capital budget ordinance under the direction of the mayor.
- (c) Review departmental work program schedules and make budgetary allotments for their accomplishment with the approval of the mayor.
- (d) Review all requests for the creation of new positions and make recommendations thereon to the mayor.
- (e) Analyze the performance of each agency and make quarterly reports to the mayor and the council on the extent to and the efficiency with which the work program of each agency has been accomplished.
- (f) Study city and departmental operations and make recommendations to the mayor for the improved efficiency and economy of such operations.

The department of water is subject to performance audit by the budget director. Op 59-61.

**CHAPTER 4**

**DEPARTMENT OF FINANCE**

**Section 5-401. Organization**—There shall be a department of finance headed by a director of finance.

**Section 5-402. Director of Finance**—The director of finance shall be appointed and may be removed by the mayor. He shall have had a minimum of five years of training and experience in a public or private financial position, at least three years of which shall have been in a responsible administrative capacity.

**Section 5-403. Powers, Duties and Functions**—The director of finance shall be the chief accounting officer of the city and shall:

- (a) Prepare bills for the collection of money due the city, or authorize the preparation thereof by other executive agencies of the city government, under his general supervision.
- (b) Collect and receive moneys due to or receivable by the city and issue receipts therefor, or authorize other executive agencies to do so under conditions prescribed by him.

On and after July 1, 1959, all billing and collection of money shall be done by the director of finance, or under his authorization. As to the department of health, Op 59-51; as to department of public works, Op 59-52; as to building department, Op 59-70; as to poundmasters, Op 59-72.

- (c) Keep accurate and complete account of receipts and disbursements.
- (d) Maintain the treasury and with the approval of the mayor deposit moneys belonging to the city in depositories authorized by law which fulfill all conditions prescribed for them by law.
- (e) Contract for services of independent contractors, purchase materials, supplies and equipment, and permit disbursements to be made only pursuant to rules adopted under the terms of this charter.

This is an exception to §9-405, which provides that the mayor shall sign all of the city's contracts. Contracts of the type described in this subsection are to be executed by the director

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of finance. Op 59-126. Construction contracts are not contracts for services within the meaning of this subsection. Op 59-127. An award of the contract to buy miscellaneous school furniture and equipment does not require the authorization of the council. Op 60-13. The director of finance is empowered to make the ultimate selection of independent contractors on behalf of the city. Op 60-36.

(f) Have the responsibility of issuing and selling, paying interest on and redeeming bonds of the city.

(g) Prepare and issue warrants.

(h) Prepare payrolls and pension rolls.

(i) Be responsible for the management of city funds.

(j) Sell real property upon which improvement assessments are not paid within the period prescribed, and dispose of movable property not needed by any agency of the city pursuant to policies established by the council.

(k) Rent or lease city property except property controlled by the board of water supply, and award concessions, pursuant to policies established by the council.

Concessions in public parks will be granted by the director of finance pursuant to policies established by the council. Op 59-69. Act 71, SLH 1957, amending §149-86(33a), RLH 1955, relating to leasing of city property is inconsistent and therefore superseded, Op 59-111, but §141-1 and §149-86(34), RLH 1955, relating to sale of city property, are not inconsistent, Op 59-111 (See Op 60-52). Act 245, SLH 1959, relating to bidding on concessions is not inconsistent. Op 59-207. Act 176, SLH 1959, amending §149-86, RLH 1955, relating to powers of the board of supervisors by adding a paragraph relating to the sale of land is not inconsistent with this charter. Op 60-52.

Note: Pursuant to paragraph (k), the council adopted on January 12, 1960 a policy relating to the renting or leasing of city property and the awarding of concessions. (Dept. Com. No. 2278 (1959))

(l) Prepare and maintain a perpetual inventory of all lands owned, leased, rented or controlled by the city.

(m) Prepare and maintain a perpetual inventory of equipment owned or controlled by the city and materials and supplies in central city store-rooms.

(n) Review assessment rolls for assessable public improvements prior to approval by the council and issue bills therefor after such approval has been given.

(o) Have custody of all official bonds, except the bond of the director of finance, which shall be in the custody of the mayor.

(p) Review the manner in which public funds are received and expended and report to the mayor on the integrity with which said funds are accounted for and on the financial responsibility of officers and employees administering said funds. Provide information pertaining to the financial affairs of the city, and make financial reports at least quarterly to the mayor and the council.

Note: Act 87, SLH 1959, provides for the discarding of vehicle registration records which are older than six years. Act 235, SLH 1959, as amended by Act 24, SS 1959, provides for the issuance of municipal bonds by the director of finance with the approval of the council.

**Section 5-404. Cash Count**—The director of finance or a designated assistant and a person designated by the council shall jointly at least once in every

three months and at such other times as may be deemed necessary verify the amount of money in the treasury and make a certified report showing:

- (a) The amount of money that ought to be in the treasury.
- (b) The amount and kind of money actually therein.

A signed copy of such report shall be filed with the mayor and the council and another signed copy shall be posted in the department of finance for public view for at least one month from the date of such report.

The auditor and a person designated by the council are the persons who are to conduct the cash count until January 2, 1961. Op 59-102.

**Section 5-405. Board of Trustees of the Policemen, Firemen, and Bandsmen Pension Fund**—The organization and the duties and functions of the board of trustees of the policemen, firemen and bandsmen pension fund of the city and county of Honolulu shall be as provided by law, except that the board shall be attached to the department of finance and the director of finance shall ex officio be the secretary and treasurer of the board.

Duties and functions remain unchanged. Op 59-66.

**Section 5-406. Pension Board of the City and County of Honolulu**—The organization and the duties and functions of the pension board of the city and county of Honolulu shall be as provided by law, except that the board shall be attached to the department of finance and the director of finance shall ex officio be the secretary and treasurer of the board.

Duties and functions remain unchanged. Op 59-67.

## CHAPTER 5

### PLANNING DEPARTMENT

Contracts executed by the predecessor of the planning department (the city planning commission) on behalf of the city remain unaffected by the adoption of the charter. Op 59-146.

**Section 5-501. Organization**—There shall be a planning department, consisting of a planning director, a planning commission, a zoning board of appeals and the necessary staff.

**Section 5-502. Planning Director**—The planning director shall be appointed by the mayor with the approval of the council and may be removed by the mayor. He shall have had a minimum of five years of training and experience in a responsible planning position, at least three years of which shall have been in an administrative capacity in charge of major city planning activities. He shall be the administrative head of the planning department.

The planning director is to be appointed by the mayor subject to approval of the council. Op 59-85.

**Section 5-503. Powers, Duties and Functions of the Planning Director**—The planning director shall:

- (a) Prepare a general plan and development plans for the improvement and development of the city.
- (b) Prepare an ordinance governing the subdivision of lands within the city.

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(c) Prepare zoning ordinances, zoning maps and regulations, and any amendments or modifications thereto.

(d) Consolidate the lists of proposed capital improvements contemplated by the several departments in the order of their priority.

(e) Be charged with the administration of the subdivision and zoning ordinances and regulations adopted thereunder.

(f) Advise the mayor and council on matters concerning the planning programs.

The planning director will administer subdivision regulations. Op 59-85.

**Section 5-504. Planning Commission**—The planning commission shall consist of nine members, seven of whom shall be appointed by the mayor with the approval of the council. The managing director and the budget director shall be members ex-officio of the commission. The managing director and the budget director shall serve in an advisory capacity only and shall not vote; nor shall their presence be counted for a quorum. The appointed members shall be appointed for staggered terms of five years and they shall serve until their successors have been appointed and qualified. They shall be persons who are in sympathy with and believe in the principles of sound city planning. Of the five members originally appointed to the commission in 1959, one shall serve for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. Of the two members added to the commission hereby, one shall serve for a term to expire June 30, 1965, and the other shall serve for a term to expire June 30, 1966. Each succeeding appointment shall be for a term ending five years from the date of the expiration of the term for which the predecessor had been appointed. Any vacancy occurring other than by expiration of a term of office shall be filled for the remainder of such unexpired term in the same manner as for an original appointment. The commission shall annually select an appointed member as chairman. A majority of the appointed members shall constitute a quorum. The affirmative vote of the majority of the appointed membership shall be necessary to take any action.

Note: Resolution No. 332, September 25, 1962 amended this section.

**Section 5-505. Powers, Duties and Functions of the Planning Commission**—The planning commission shall:

(a) Advise the mayor, council and planning director in matters concerning the planning programs.

(b) Review the general plan and development plans and modifications thereof developed by the director. The commission shall transmit such plans with its recommendations thereon through the mayor to the council for its consideration and action. The commission shall recommend approval in whole or in part and with or without modifications or recommend rejection of such plans.

(c) Review land subdivision and zoning ordinances and amendments thereto developed by the director. The commission shall transmit such ordinances with its recommendations thereon through the mayor to the council for its consideration and action. The commission shall recommend approval in whole or in part and with or without modifications or recommend rejection of such ordinances.

(d) Adopt regulations having the force and effect of law pursuant to the subdivision ordinance.

- (e) Prepare a capital improvement program.
- (f) Consult with the territorial planning director with reference to the general plan and capital improvement program.
- (g) Perform such other related duties as may be necessary to fulfill its responsibilities under this charter or as may be assigned by the mayor or council.

**Section 5-506. Zoning Board of Appeals**—The zoning board of appeals shall consist of three members who shall be appointed by the mayor with the approval of the council. They shall serve for terms of three years and until their successors have been appointed and qualified. Of the members originally appointed, one shall serve for a term of one year, one for a term of two years and one for a term of three years. Any vacancy occurring other than by expiration of a term of office shall be filled for the remainder of such unexpired term in the same manner as for an original appointment. The board shall select a chairman from its membership annually. Two members shall constitute a quorum for the transaction of business and the affirmative vote of at least two members shall be necessary to take any action.

The members of the zoning board of appeals are to be appointed by the mayor subject to approval of the council. Op 59-85. Act 94, SLH 1959, amending §149-86, RLH 1955, relating to general power of the council is not inconsistent. Op 60-54.

**Section 5-507. Powers, Duties and Functions of the Zoning Board of Appeals**—The zoning board of appeals shall:

(a) Hear and determine appeals from the actions of the director in the administration of the subdivision and zoning ordinances and any regulations adopted pursuant thereto. An appeal shall be sustained only if the board finds that the director's action was based on an erroneous finding of a material fact, or that the director had acted in an arbitrary or capricious manner or had manifestly abused his discretion.

(b) Hear and determine petitions for varying the application of the zoning ordinance with respect to a specific parcel of land and may grant such a variance upon the ground of unnecessary hardship if the record shows that (1) by reason of peculiar and unusual circumstances pertaining to the physical characteristics of the property, the land in question cannot yield a reasonable return if used only for a purpose allowed in that zone, (2) the plight of the owner is due to unique circumstances and not to the general conditions in the neighborhood which may reflect the unreasonableness of the zoning ordinance itself, and (3) that the use sought to be authorized by the variance will not alter the essential character of the locality nor be contrary to the intent and purpose of the zoning ordinance.

The zoning board of appeals is empowered to vary or modify off-street parking requirements. Op 59-85.

**Section 5-508. Reimbursement of Expenses**—The members of the planning commission and of the zoning board of appeals shall receive no compensation but shall be entitled to be reimbursed for travelling and other necessary expenses actually incurred by them in the performance of their duties hereunder.

**Section 5-509. General Plan**—The general plan shall set forth the council's policy for the long-range, ~~comprehensive-physical~~ development of the city. City

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The general plan shall include a map of the city and shall contain a statement of development objectives, standards and principles with respect to the most desirable use of land within the city for residential, recreational, agricultural, commercial, industrial and other purposes; the most desirable density of population in the several parts of the city; a system of principal thoroughfares, highways, streets and other public open spaces; the general location, relocation and improvement of public buildings; the general location and extent of public utilities and terminals, whether publicly or privately owned, for water, sewers, light, power, transit and other purposes; the extent and location of public housing projects; adequate drainage facilities and control; and such other matters as may, in the council's judgment, be beneficial to the city. The plan shall be based upon studies of physical, social, economic and governmental conditions and trends and shall be designed to assure the coordinated development of the city and to promote the general welfare and prosperity of its people.

Note: Act 220, SLH 1959, provides for a capital site for the state.

**Section 5-510. Development Plan**—"Development plan" means a relatively detailed scheme for the placement or use of specific facilities within a defined area so as to insure the most beneficial use of such area in conjunction with the use of surrounding areas. A development plan is within the framework of and implements the general plan.

**Section 5-511. Review by the Board of Water Supply**—Upon receipt of the general plan and development plans recommended by the planning director and prior to the submission of such plans to the council, the planning commission shall consult with the board of water supply on such parts thereof relating to the water systems of the city. No addition or change in such plans affecting the water systems of the city shall be made without prior consultation with the board of water supply.

**Section 5-512. Adoption of the General Plan and Development Plans**—

1. The council shall adopt the general plan or any development plan by ordinance. The general plan and all development plans shall be kept on file in the office of the planning department.

2. No public improvement or project, or subdivision or zoning ordinance shall be initiated or adopted unless it conforms to and implements the general plan. In case of a conflict between the general plan and any present or future federal aid project, the council may set aside the general plan to the extent that such conflict prevents the obtaining or the granting of federal aid on any such project or the prosecution of the work thereunder.

3. No person shall construct, operate or maintain any street railway or bus or other motor vehicle common carrier line or transit system on any street within the city unless the location and extent thereof has been submitted to and approved by the planning director as being in conformity with the general plan.

4. Any addition to or change in the general plan proposed by the council shall be referred by resolution to the planning director and the planning commission for their recommendation prior to final action by the council. If the commission disapproves the proposed change or addition, or recommends a

modification thereof, not accepted by the council, or fails to make its report within the period of thirty days, the council may nevertheless adopt such addition or change, but only by the affirmative vote of at least two-thirds of its entire membership.

Act 147, SLH 1959, amending §149-184, RLH 1955, relating to amending the general plan is inconsistent and superseded. Op 59-8. Until the adoption of the general plan by ordinance, any amendment thereof may be made by resolution. Op 59-139. Act 50, SLH 1959, amending §149-183, RLH 1955, relating to the master plan is inconsistent and therefore superseded. Op 60-55.

**Section 5-513. Subdivision or Consolidation of Land—**

1. *Subdivision Ordinance.* The council shall enact an ordinance governing the subdivision or consolidation of land pursuant to which subdivision regulations shall be promulgated.

2. *Approval of Subdivisions.* After the enactment of the ordinance governing subdivisions or consolidations of land, no land may be subdivided unless the proposed subdivision plans are in conformity with the subdivision ordinance and regulations and have been approved by the planning director.

3. *Regulations of the Board of Water Supply.* The regulations of the board of water supply shall govern the extent to which water mains and all necessary appurtenances shall be installed to and within subdivisions.

**Section 5-514. Zoning Ordinances—**The council shall enact zoning ordinances which shall contain the necessary provisions to carry out the purpose of the general plan. In enacting the ordinances the council shall take into consideration the character of the several parts of the city and their peculiar suitability for particular uses and types of development with a view to encouraging the most appropriate use of land throughout the city. The ordinances shall contain reasonable standards with respect to the location, height, bulk, size of buildings and other structures, the area of yards, courts, off-street parking spaces and facilities and other open spaces, the density of population, and the use of buildings, structures and land for trade, industry, business, residence or other purposes.

The council may initiate zoning ordinances. Op 59-105. Act 187, SLH 1959, amending §149-197, RLH 1955, relating to zoning is inconsistent and superseded. Op 59-203.

**Section 5-515. Public Notice and Public Hearing—**

1. Prior to the adoption of the general plan and any development plan or the subdivision and zoning ordinances, or any amendments thereto, the council may 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 ten days prior to such hearing in a daily newspaper of general circulation in the city.

2. Prior to recommending the adoption of the general plan and any development plan or any subdivision or zoning ordinance or any amendments thereto, and prior to the adoption of subdivision regulations or any amendments thereto, the planning 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 ten days prior to such hearing in a daily newspaper of general circulation in the city.

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3. Prior to the granting of any variance the zoning board of appeals 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 ten days prior to such hearing in a daily newspaper of general circulation in the city.

Act 187, SLH 1959, amending §149-197, RLH 1955, relating to zoning is inconsistent and superseded. Op 59-203.

**CHAPTER 6**

**DEPARTMENT OF CIVIL SERVICE**

Chap. 3, RLH 1955, as amended, is no longer applicable to the city except for those provisions relating to position classification and pay. Op 59-50. Act 154, SLH 1959, amending §3-21, RLH 1955, relating to promotions is inconsistent and superseded. Op 59-187. §3-8, RLH 1955, relating to service awards is no longer applicable to the city and county of Honolulu. Op 59-213.

**Section 5-601. Organization**—There shall be a department of civil service which shall consist of a director of civil service, a civil service commission and the necessary staff. The director shall be the administrative head of the department.

**Section 5-602. Statement of Policy**—It is hereby declared to be the purpose of this chapter to establish in the city a system of personnel administration based on merit principles and generally accepted methods governing the classification of positions and the employment, conduct, movement and separation of public officers and employees.

It is also declared to be the purpose of this chapter to build a career service which will attract, select, and retain on a merit basis the best qualified civil servants who shall hold their office or position, free from coercive political influences, with incentives in the form of genuine opportunities for promotions in order that they may provide competent and impartial service to the public according to the dictates of ethics and morality. In order to achieve these purposes it is the declared policy of the city that the personnel system hereby established be applied and administered in accordance with the following merit principles:

- (a) Equal opportunity for all regardless of race, religion, or politics.
- (b) Impartial selection of the ablest person for government service by means of competitive tests which are fair.
- (c) Just opportunity for competent employees to be promoted within the service.
- (d) Reasonable job security for the competent employee.
- (e) Systematic classification of all positions through adequate job evaluation.
- (f) Proper balance in employer-employee relations between the people as the employer and employees as the individual citizens, to achieve a well trained and productive working force.

**Section 5-603. Civil Service and Exemptions**—This chapter shall apply to all positions in the service of the city and embraces all personal services performed for the city, except the following:

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(a) Positions of officers elected by public vote; positions of heads of departments; position of the clerk; position of the manager of the board of water supply and position of the chief of police.

(b) Positions in the office of mayor, but such positions shall be included in the position classification plan. Employees of the municipal library and of the offices of information and complaint and budget director, other than the heads of such offices, however, shall not be exempted from the provisions of this chapter.

(c) Positions of deputies of the corporation counsel, deputies of the prosecuting attorney and law clerks.

(d) Positions of members of any board, commission or equivalent body.

(e) Positions filled by inmates, patients, or students in city institutions or in the schools.

(f) Positions of district magistrates, jurors, jury commissioners and witnesses.

(g) Personal services obtained by contract where the director has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year.

(h) Personal services of a temporary nature needed in the public interest where the need for the same does not exceed ninety days, but before any person may be employed to render such temporary service the director of civil service shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable. The employment of any person for service of a temporary nature may be extended for good cause for an additional period not to exceed ninety days upon similar certification by the director subject to approval of the civil service commission.

(i) Personal services performed on a fee, contract or piecework basis by persons who may lawfully perform their duties concurrently with their private business or profession or other private employment, if any, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the portion of time devoted to the service of the city and such fact is certified to by the director of civil service.

(j) Positions of temporary election clerks in the office of the city clerk employed during the election periods, but the positions filled by such employees shall be included in the position classification plan.

(k) Positions of one first deputy and one private secretary of heads of departments, but positions filled by such persons shall be included in the position classification plan. The first deputy in the department of civil service, however, shall not be exempt from the provisions of this chapter.

The director of civil service shall determine the applicability of this section to specific employment or services.

The position of municipal librarian is exempt from civil service. Op 59-50. Whether paragraph (k) is applicable to the position of civil service secretary is to be resolved by the personnel

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director. Op 59-50. The director must classify a position as private secretary to a department head before the position becomes exempt from civil service. Op 59-50. Employees of the library, except for the head, will be in civil service. Op 59-64. The positions of the head of the office of information and complaint, the librarian and the budget director are exempt from civil service, but the pay will be determined according to the compensation law of the state. Op 59-84. The director of rent control will be in civil service. Op 59-84. The salary of the managing director is set pursuant to §6-101 of charter. Op 59-84. All positions in the office of information and complaint other than that of the head are in civil service. Op 59-101. The first deputy of the controller's office upon transfer to the office of the budget director will be in civil service. Op 59-108. A civil service employee who accepts a position as chauffeur to the mayor may not retain his civil service status. Op 59-162. Employees of the council will be in civil service. Op 59-163. Act 156, SLH 1959, amending §4-4, RLH 1955, relating to compensation is not superseded. Op 59-204.

**Section 5-604. Director of Civil Service**—The director of civil service shall have had a minimum of five years of training and experience in personnel administration either in public service or private business, or both, at least three years of which shall have been in a responsible administrative capacity, and shall be in sympathy with the principles of the merit system. He shall be appointed by the mayor and may be removed only for cause after being given a written statement of the charges against him and a hearing before the council thereon, if he so requests. The director shall be the head of the department of civil service. He shall be responsible for the proper conduct of all administrative affairs of the department, and for the execution of the personnel program prescribed in this charter and in the ordinances and regulations authorized by this charter.

Upon adoption of the charter the personnel director must be reappointed. Op 59-50.

**Section 5-605. Appointments and Promotions in Civil Service**—Appointments and promotions in the civil service shall be made only after certification by the director under a general system based upon merit, efficiency and fitness as ascertained by examinations which, so far as practicable, shall be competitive, and all positions in the civil service shall be filled from those eligible under such certification. In case of persons employed to perform manual labor for which no special skill is required, original entrance examination may be waived by the director.

**Section 5-606. Classification**—Class titles shall be used to designate positions in all official records, documents, vouchers and communications, and no person shall be appointed to or employed in a position in the civil service under any title which has not been approved by the director.

**Section 5-607. Appeals**—

1. Any person aggrieved by any action of the director of civil service or who has been suspended, demoted or dismissed may appeal to the civil service commission for redress pursuant to its regulations.
2. If the civil service commission, after a hearing, orders a demoted, dismissed or suspended employee reinstated, it may reinstate such employee under such conditions as it deems proper.

**Section 5-608. Position Classification Plan; Compensation**—Except as provided by Section 5-603, all positions in the service of the city shall be classified within a position classification plan, and all persons holding such

positions shall be compensated, as provided by the compensation law of the State.

The head of the office of information and complaint, the librarian, the budget director and the director of rent control will be within the position classification plan. The managing director, however, will not be within the position classification plan. Op 59-84.

Note: Act 238, SLH 1959, as amended by Act 7, SS 1959, relates to compensation for overtime work.

### **Section 5-609. Civil Service Commission—**

1. *Membership, Term and Appointment.* The civil service commission shall consist of five members, who shall be in sympathy with and who shall believe in the principles of the merit system in public employment. They shall be appointed by the mayor with the approval of the council for staggered terms of five years. Of the members appointed, one shall be selected from among persons employed in private industry in either skilled or unskilled laboring positions as distinguished from executive or professional positions. Each member shall serve until his successor has been appointed and qualified. Any vacancy occurring other than by expiration of a term of office shall be filled for the remainder of the term in the same manner as for an original appointment. Not more than three members of the commission shall belong to the same political party. The commission shall select a chairman from its membership annually. The affirmative vote of a majority of the entire membership shall be necessary to take any action.

2. *Powers, Duties and Functions.* The civil service commission shall have power and shall be required to:

(a) Advise the mayor and the director of civil service on problems concerning personnel administration.

(b) Advise and assist the director in fostering the interest of institutions of learning and of civic, professional and employee organizations in the improvement of personnel standards.

(c) Make any investigation which it may consider desirable concerning personnel administration and report to the mayor, at least once each year, its findings, conclusions and recommendations. The commission may appoint a master and invest him with power to conduct such investigations and report thereon to the commission.

(d) Hear appeals. The commission may appoint a master and invest him with power to hear such appeals and report thereon to the commission.

(e) Prescribe regulations to carry out the provisions of this chapter.

3. *Interference with Administrative Affairs.* Except for purposes of inquiry neither the civil service commission nor its members shall interfere in any way with the administrative affairs of the department.

4. *Reimbursement of Expenses.* The members of the civil service commission shall receive no compensation but shall be entitled to be reimbursed for traveling and other necessary expenses actually incurred by them in the performance of their duties.

Each member of the commission holding office on July 1, 1959, shall continue in office until his term of office expires. Op 59-50. A commissioner may succeed himself. Op 59-50. Present commissioners will receive no compensation for attending meetings. Op 59-50. The commission may order a master to conduct hearings and to make a recommendation, but it

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is not bound to follow the recommendation. Op 59-50. The powers, duties and functions of the commission are as herein prescribed and are not as prescribed in Chap. 3, RLH 1955. Op 59-50. A commissioner who had been absent from a meeting at which action on an appeal has been duly taken, but had been present at the appeal hearing held several days earlier, may move for a reconsideration of the action. Op 59-95. Act 94, SLH 1959, amending §149-86, RLH 1955, relating to general power of the council is not inconsistent. Op 60-54.

**Section 5-610. Adoption and Content of Regulations—**

1. *Adoption.* The director of civil service shall prepare and recommend to the civil service commission reasonable regulations to carry out the provisions of this chapter. Upon adoption by the commission and approval by the mayor, such regulations shall have the force and effect of law.

2. *Content.* The regulation shall:

(a) Regulate appointments, promotions, removals and other personnel matters.

(b) Contain uniform provisions covering the method and manner of conducting examinations; on the job training programs; a uniform performance evaluation system, including the manner in which ratings are to be used in promotions, salary increases, suspensions and separations; and position classifications.

(c) Provide procedures for original appointment or temporary appointment, promotion, transfer, the filling of vacancies, leaves of absences, layoffs, suspension, demotion, separation, reinstatement and re-employment.

(d) Provide for the establishment, maintenance, consolidation, cancellation and extension of eligible lists and the removal of names therefrom.

(e) Provide for the establishment of desirable standards of training, experience and other qualification of applicants.

(f) Establish work test periods of not less than six nor more than twelve months before appointees acquire permanent civil service status.

(g) Establish procedures for grievance proceedings.

(h) Fix the procedure and the time within which appeals must be taken and heard.

(i) Establish the method of certification of eligibles for appointment or promotion. The appointing authorities shall be entitled to the certification of not less than five eligibles for each vacancy. If more than one vacancy is to be filled, an additional eligible shall be certified for each additional vacancy. Special and different regulations may be established for unskilled labor lists, re-employment lists, reinstatements and procedures for emergency, provisional or temporary appointments, or appointments for a limited period where status in the civil service is not obtained and certification is not required.

(j) Provide the extent to which preference shall be given in appointments and promotions to persons honorably discharged or discharged under honorable conditions from the armed forces; to the unremarried widows of such persons; and to disabled veterans or to their wives when the veterans are unable to work. Such preference shall be given only to persons who have met the minimum requirements imposed for each test and have received at least the rating required for eligibility.

(k) Prescribe the conditions pursuant to which transfer of employees between the city and the State and other political subdivisions may be made.

The prescribing of minimum qualifications does not conflict with this provision. Op 59-50. Note: Act 212, SLH 1959, relates to probationary service in civil service.

**Section 5-611. Racial, Religious, or political consideration banned—**  
No person holding any position in the civil service shall be favored or discriminated against on racial, religious or political grounds.

**Section 5-612. Prohibitions—**

*1. Prohibited Political Activities.*

(a) No person in the civil service shall (1) use his official authority or influence for the purpose of interfering with an election or affecting the result thereof; (2) use his official authority or influence to coerce the political action of any person or party; (3) be obliged to contribute to any political fund or to render any political service, nor shall he be removed or otherwise prejudiced for refusing to do so; or (4) solicit or receive any political contribution from any officer or employee, or from any person in any city building or from any person receiving any benefit under any law of the State appropriating funds for relief or public assistance; or (5) discriminate in favor of, or against, any officer or employee on account of any political contribution.

(b) The foregoing prohibited activities shall not be deemed to preclude the right of any person in the civil service to vote as he chooses and to express his opinions on all political subjects and candidates, or to be a member of any political party, organization or club. Any person in the civil service may make voluntary contributions to a political organization for its general expenditures. "Contribution" includes a gift, subscription, loan, advance or deposit of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable, to make a contribution.

*2. Other Prohibited Activities.*

(a) No recommendation of any person who applies for examination or appointment to any office or position under the provisions of this chapter which may be given by an elected officer of the city, except as to the ability or character of the applicant, shall be received or considered by any person concerned in the giving of any examination or the making of any appointment under this chapter.

(b) It shall be unlawful for any candidate for election to any public office or for any public officer or employee, any portion of whose compensation is paid by the city directly or indirectly, to solicit or assess any contribution or assessment for any political purpose whatever from any member in the civil service.

(c) No person shall, in any room or building occupied in the discharge of official duties by any officer or employee, solicit in any manner whatever or receive any contribution of money or other things of value from any officer or employee for any political purpose whatever.

(d) No officer or employee shall discharge, promote or demote or in any manner change the status or compensation of any other officer or employee or promise or threaten so to do for giving or withholding or neglecting to make any contribution of money or other things of value for any political purpose whatever.

(e) No officer or employee shall directly or indirectly hand over to any other officer or employee any money or other things of value on account of or to be applied to the promotion of any political object whatever.

(f) No officer or employee shall discharge, promote or demote or in any manner change the status or compensation of any other officer or employee or promise or threaten so to do because of the political or religious actions or beliefs of such other officer or employee or for the failure of such other officer or employee to take any political action for any political purpose whatever or to advocate or fail to advocate the candidacy of any person seeking an elective office.

(g) No person shall make any false statement, certificate, mark, rating or report with regard to any test, certification or appointment made under any provision of this chapter nor commit or attempt to commit any fraud preventing the impartial execution of any provision of this chapter and of the regulations adopted hereunder.

(h) No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other thing of value to obtain any appointment, proposed appointment, promotion or proposed promotion to, or obtain any advantage in, a position in the civil service.

### *3. Certification of Payrolls.*

(a) No disbursing or certifying officer shall make or approve or take any part in making or approving any payment for personal service to any person holding a position in the civil service or otherwise employed under the provisions of this chapter unless payroll certification has been made by the director or his authorized agent that the person named therein has been appointed and employed in accordance with the provisions of this chapter and the regulations adopted thereunder. The director may for proper cause withhold payroll certification for any position or positions in the civil service, or for any other position where the director's certification is required under the provisions of this chapter.

(b) If the director of civil service wrongfully withholds payroll certification for a position in the city service held by any employee, such employee may maintain a proceeding in the courts to compel the director to certify such payroll.

### *4. Wrongful Payments.*

(a) Any citizen may maintain a suit to restrain a disbursing officer from making any payments of any salary or compensation to any person whose appointment or employment has not been made in accordance with this chapter and the regulations in force thereunder. Any sum paid contrary to the provisions of this chapter and the regulations established thereunder may be recovered in an action maintained by any citizen from any officer who made, approved, or authorized such payment or who signed or counter-

signed a voucher, payroll, check or warrant for such payment or from the sureties on the official bond of any such officer. The citizen bringing the action shall be entitled to the costs of suit, including a reasonable attorney's fee from any money recovered in such action. The balance of any sums recovered shall be paid into the city's treasury.

(b) Any person appointed or employed in contravention of any provision of this chapter or of the regulations thereunder who performs service for which he is not paid may maintain an action against the officer or officers who purported so to appoint or employ him to recover the agreed pay for such services or the reasonable value thereof if no pay is agreed upon. No officer shall be reimbursed at any time by the city for any sum paid to such person on account of such services.

## ARTICLE VI

### EXECUTIVE BRANCH—MANAGING DIRECTOR AND AGENCIES DIRECTLY UNDER THE MANAGING DIRECTOR

#### CHAPTER 1

#### MANAGING DIRECTOR

##### Section 6-101. Managing Director—

1. There shall be a managing director who shall be appointed and may be removed by the mayor. He shall be the principal management aide of the mayor. He shall have had at least five years of such training and experience either in public service or private business as shall qualify him to perform the executive duties of his office.

2. The position of the managing director shall be in the office of the mayor.

3. The salary of the managing director shall be \$16,000.00 per annum which shall be subject to change by the council. The salary of any incumbent shall be reduced only in the event that a general reduction in salaries of all city officers and employees is simultaneously effected.

4. Should the mayor fail to appoint a managing director within six months of the effective date of this charter, or within ninety days of the occurrence of any vacancy in the position, unless such periods are extended by the council, the council shall make the appointment but the power to remove the managing director shall nevertheless be vested in the mayor.

The salary of the managing director will be determined by this provision and not by the position classification plan. Op 59-84. If the mayor desires to have the incumbent management aide to the mayor serve as managing director, the mayor must appoint such person as the managing director. Op 59-84. Act 94, SLH 1959, amending §149-86, RLH 1955, relating to general power of the council is not inconsistent. Op 60-54.

##### Section 6-102. Powers, Duties and Functions—The managing director shall:

(a) Supervise the heads of all executive agencies except the agencies under the direct supervision of the mayor.

(b) Inform himself and keep the mayor advised concerning the operations of all executive agencies under his supervision, and make, or cause to be made, investigations and studies of the internal organization and

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procedures of any such executive agency and may require such reports from any of them as he deems necessary.

(c) Prescribe standards of administrative practice to be followed by all executive agencies under his supervision.

(d) Attend meetings of the council or of any board or committee when requested by the mayor.

(e) Attend meetings of the council and its committees upon request and make available such information as they may require.

(f) Perform all other duties required of him by this charter or assigned to him in writing by the mayor.

The safety program administrator reports to the managing director. Op 59-54. When the chief engineer has been requested by the council to make a study on any matter, he should transmit his report to the council through the mayor's office. Op 59-94. Requests by the general public for services for which no appropriation has been made should be referred by the operating departments to the mayor for further disposition. Op 59-103.

## **CHAPTER 2**

### **DEPARTMENT OF PUBLIC WORKS**

**Section 6-201. Organization**—There shall be a department of public works which shall be headed by a chief engineer.

**Section 6-202. Chief Engineer**—The chief engineer shall be appointed and may be removed by the mayor. He shall be a registered professional engineer and shall have had a minimum of five years of training and experience in an engineering position, at least three years of which shall have been in a responsible administrative capacity.

The salary of the chief engineer will be fixed by the council upon recommendation of the mayor. Op 59-52.

**Section 6-203. Powers, Duties and Functions**—The powers, duties and functions of the department of public works existing at the effective date of this charter, except those which have been transferred by provisions of this charter, shall be exercised and performed by the department until changed or modified pursuant to the provisions of this charter.

The divisions of traffic safety and street lighting are abolished and the powers, duties and functions thereof are transferred to the department of traffic. Op 59-52. Personnel of the traffic safety and street lighting divisions are transferred to the department of traffic. Op 59-52. Positions within the division of road maintenance may be administratively assigned within the division without prior approval of the mayor or council. Op 60-12.

## **CHAPTER 3**

### **BUILDING DEPARTMENT**

**Section 6-301. Organization**—There shall be a building department which shall be headed by a building superintendent.

**Section 6-302. Building Superintendent**—The building superintendent shall be appointed and may be removed by the mayor. He shall be a registered architect or a registered professional engineer and shall have had a minimum

of five years of training and experience in an architectural or engineering position, at least three years of which shall have been in a responsible administrative capacity.

The building superintendent will be appointed by the mayor without the necessity of confirmation by the council but the present incumbent will continue in office until January 2, 1961. Op 59-70.

**Section 6-303. Powers, Duties and Functions**—The powers, duties and functions of the building department existing at the effective date of this charter shall be exercised and performed by the department until changed or modified pursuant to the provisions of this charter.

The powers, duties and functions of this department are substantially unchanged. Op 59-70.

#### CHAPTER 4 FIRE DEPARTMENT

**Section 6-401. Organization**—There shall be a fire department which shall be headed by a fire chief.

**Section 6-402. Fire Chief**—The fire chief shall be appointed and may be removed by the mayor. He shall have had a minimum of five years of training and experience in a fire department, at least three years of which shall have been in a responsible administrative capacity.

The fire chief will be appointed by the mayor without the necessity of confirmation by the council but the present incumbent will continue in office until January 2, 1961. Op 59-68.

**Section 6-403. Powers, Duties and Functions**—The powers, duties and functions of the fire department existing at the effective date of this charter shall be exercised and performed by the department until changed or modified pursuant to the provisions of this charter.

The powers, duties and functions of the fire department are substantially unchanged. Op 59-68.

#### CHAPTER 5 DEPARTMENT OF TRAFFIC

**Section 6-501. Organization**—There shall be a department of traffic which shall be headed by a traffic engineer.

The salary of the traffic engineer will be fixed by the council upon the recommendation of the mayor. Op 59-52. The division of traffic safety and street lighting are abolished and the powers, duties and functions thereof are transferred to the department of traffic. Op 59-52.

**Section 6-502. Traffic Engineer**—The traffic engineer shall be appointed and may be removed by the mayor. He shall have had a minimum of five years of training and experience in a traffic engineering position, at least three years of which shall have been in a responsible administrative capacity in charge of major traffic engineering activities.

**Section 6-503. Powers, Duties and Functions**—The powers, duties and functions of the department of traffic shall include the approval of plans and

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designs for the construction, reconstruction and widening of public streets, all of which shall be submitted to the department; the determination of the location and the installation, maintenance and repair of traffic control facilities and devices and street lighting systems; traffic engineering; educational programs; the promulgation of regulations having the force and effect of law pursuant to standards established by ordinance and such other duties not inconsistent with the functions of the department as may be assigned by the mayor.

The traffic engineer is responsible for publicly advertising and calling for bids for the construction of street lighting systems. Op 60-9.

**CHAPTER 6**

**DEPARTMENT OF PARKS AND RECREATION**

**Section 6-601. Organization**—There shall be a department of parks and recreation consisting of a director who shall be the head of the department and a board of nine members.

**Section 6-602. Appointment of Director**—The director of parks and recreation shall be appointed and may be removed by the mayor. He shall have had a minimum of five years of training and experience in a parks and recreation position or related fields, at least three years of which shall have been in a responsible administrative capacity.

The director will be appointed by the mayor without the necessity of confirmation by the council and his term of office will be coterminous with that of the mayor. Op 59-69.

**Section 6-603. Powers, Duties and Functions of the Department**—The department shall:

(a) Plan, design, construct, maintain and operate all parks and recreational grounds, facilities and programs of the city.

(b) Plant, trim and maintain all shade trees, hedges and shrubs on public streets of the city.

The city has the power to trim trees growing on or extending over public streets. Op 59-144, Op 60-56.

**Section 6-604. Appointment of the Board**—Members of the board of department of parks and recreation shall be appointed by the mayor with the approval of the council and shall serve for four years.

Act 94, SLH 1959, amending §149-86, RLH 1955, relating to general power of the council is not inconsistent. Op 60-54.

**Section 6-605. Powers, Duties and Functions of the Board**—The board shall:

(a) Advise the mayor, the council, and the director of parks and recreation on matters concerning parks and recreation.

(b) Recommend to the director of parks and recreation annually a schedule of improvements to be undertaken in each of the six succeeding years for the location, extension, and development of parks and recreational areas, which schedule shall be given due consideration by the director in formulating his portion of the proposed capital program of the city.

(c) Perform such other related advisory duties as may be assigned to the board by the mayor or council.

The board of department of parks and recreation is advisory. Op 59-69. Act 106, SLH 1959, amending §151-14, RLH 1955, relating to disbursements of money appropriated to the use of the board of parks and recreation is inconsistent and is therefore superseded. Op 59-209.

## CHAPTER 7 PROSECUTING ATTORNEY

**Section 6-701. Appointment and Removal**—There shall be a prosecuting attorney who shall be appointed by the mayor. He may be removed by the mayor only after being given a written statement of the charges against him.

The prosecuting attorney will be appointed by the mayor without the necessity of confirmation by the council but the present incumbent will continue in office until January 2, 1961. Op 59-58.

**Section 6-702. Qualification**—The prosecuting attorney shall be an attorney licensed to practice and in good standing before the supreme court of the State and who shall have engaged in the practice of law in the State for at least five years.

**Section 6-703. Powers, Duties and Functions**—The prosecuting attorney shall:

(a) Attend all courts in the city and conduct on behalf of the people all prosecutions therein for offenses against the laws of the State and the ordinances and regulations of the city.

(b) Prosecute offenses against the laws of the State under the authority of the attorney general of the State.

(c) Appear in every criminal case where there is a change of venue from the courts in the city and prosecute the same in any jurisdiction to which the same is changed or removed. The expense of such proceeding shall be paid by the city.

(d) Institute proceedings or direct the chief of police to do so before the district magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that any such offenses have been committed, and for that purpose take charge of criminal cases before the district magistrates, either in person or by a deputy, or by such other prosecuting officer as he shall designate; draw all indictments and attend before and give advice to the grand jury whenever cases are presented to it for its consideration. Nothing herein contained shall prevent the conduct of proceedings by private counsel before district magistrates or courts of record under the direction of the prosecuting attorney.

The powers, duties and functions are substantially unchanged although the title is changed to prosecuting attorney. Op 59-58.

**Section 6-704. Investigators**—

1. The prosecuting attorney may appoint investigators who shall have all the powers and privileges of a police officer of the city.

2. At the request of the prosecuting attorney one or more officers of the police department shall be detailed by the chief of police for the purpose of

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doing necessary investigative work and who shall continue to serve on such detail during the pleasure of the prosecuting attorney and as long as the necessity of such detail exists.

**CHAPTER 8**

**DEPARTMENT OF HEALTH**

**Section 6-801. Organization**—There shall be a department of health which shall be headed by the city and county physician.

**Section 6-802. City and County Physician**—The city and county Physician shall be appointed and may be removed by the mayor. He shall be a licensed physician who shall have engaged in the practice of medicine in the State for at least five years.

The city and county physician will be appointed by the mayor without the necessity of confirmation by the council but the present incumbent will continue in office until January 2, 1961. Op 59-51.

**Section 6-803. Powers, Duties and Functions**—The powers, duties and functions of the department of health existing at the effective date of this charter, except those of the coroner's physician, shall be exercised and performed by the department until changed or modified pursuant to the provisions of this charter.

The powers, duties and functions of the health department are substantially unchanged, except that billing and collecting will be performed by the director of finance or under his authority. Op 59-51. The functions of the coroner's physician on and after January 2, 1961, will no longer be exercised by the city and county physician but will be performed by the medical examiner. Op 59-51.

**CHAPTER 9**

**MEDICAL EXAMINER**

**Section 6-901. Appointment and Removal**—There shall be a medical examiner who shall be appointed by the mayor and who may be removed only for cause after being given a written statement of the charges against him and a hearing before the council thereon, if he so requests.

**Section 6-902. Qualifications**—The medical examiner and any deputy medical examiner shall be licensed physicians and pathologists.

**Section 6-903. Powers, Duties and Functions**—The medical examiner shall perform the duties imposed upon and have the power vested in the coroner and the coroner's physician of the city by law, where not in conflict with the provisions of this chapter.

The functions of the coroner's physician on and after January 2, 1961, will no longer be exercised by the city and county physician but will be performed by the medical examiner. Op 59-51.

**Section 6-904. Office Always Open**—The office of the medical examiner shall be kept open every day in the year, including Sundays and legal holidays.

**Section 6-905. Notification of Death**—When any person dies in the city as a result of violence, or by a casualty or by apparent suicide, or suddenly when

in apparent health, or when not under the care of a physician, or when in jail or in prison, or within twenty-four hours after admission to a hospital or in any suspicious or unusual manner, it shall be the duty of the person having knowledge of such death immediately to notify the office of the medical examiner and the police department.

**Section 6-906. Investigations by the Medical Examiner**—Immediately upon receipt of such notification the medical examiner shall go to the body and take charge of it and shall make a full investigation concerning the medical cause of death. He shall also take possession of all property of value found upon such person, make an exact inventory and surrender the property except such items as are necessary to determine the cause of death, to the chief of police. All property, when no longer needed for medical or police purposes, shall be returned to the person entitled to its custody or possession. No person shall move the corpse or remains of any deceased person appearing to have come to death under any of the circumstances set forth in this chapter without the prior approval of the medical examiner and the chief of police.

**Section 6-907. Autopsies**—If, in the opinion of either the medical examiner or the prosecuting attorney, an autopsy is necessary, the autopsy shall be performed by the medical examiner. A detailed description of the findings of such autopsy and the conclusions drawn therefrom shall be filed in the office of the medical examiner.

**Section 6-908. Records**—The medical examiner shall keep full and complete records of all deaths resulting under the circumstances set forth in this chapter and promptly deliver to the prosecuting attorney and the chief of police copies of all such records.

**Section 6-909. Oaths**—The medical examiner and any deputy medical examiner may administer oaths and affirmations, take affidavits and make examinations as to any matter within the jurisdiction of the office, but may not summon a jury of inquisition.

## ARTICLE VII

### EXECUTIVE BRANCH—POLICE DEPARTMENT

Note: Act 34, SLH 1959, amending §150-13, RLH 1955, relates to car allowances.

**Section 7-101. Organization**—The organization of the police department shall be as provided by law.

**Section 7-102. Police Commission**—The composition of the police commission and the appointment, removal, qualifications and terms of office of the members shall be as provided by law.

**Section 7-103. Departmental Rules**—The police commission shall adopt such rules as it may consider necessary for the conduct of its business and regulation of the matters committed to its charge by law. Except for purposes of inquiry, however, neither the commission nor its members shall interfere in any way with the administrative affairs of the department.

**Section 7-104. Appointment and Removal of the Chief of Police**—The

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chief of police shall be appointed as provided by law but may be removed only after being given a written statement of the charges against him.

**Section 7-105. Qualifications of the Police Chief**—The chief of police shall have had a minimum of five years of training and experience in law enforcement work at least three years of which shall have been in a responsible administrative capacity.

**Section 7-106. Powers, Duties and Functions of the Chief of Police**—The chief of police shall:

(a) Be responsible for the preservation of the public peace, prevention of crime, detection and arrest of offenders against the law, protection of the rights of persons and property, and enforcement and prevention of violations of all laws of the State and city ordinances and all regulations made in accordance therewith.

(b) Train, equip, maintain and supervise the force of police officers pursuant to the rules of the police commission.

(c) Take charge of and keep the city jail and all prisoners committed thereto.

(d) Serve process and notices both in civil and criminal proceedings.

(e) Have such other duties, except the functions of the coroner, as heretofore performed by the city and county sheriff and other related duties as may be assigned.

The powers, duties and functions remain substantially the same until January 2, 1961; thereafter the duties of the city and county sheriff, except for the function of the coroner, will be assumed by the chief of police. Op 59-71. Requests to the council from the chief of police will be routed through the mayor. Op 59-94.

Note: Act 3, SS 1959, authorizes the chief of police, with the approval of the mayor, to contract with the United States for the imprisonment and care of federal prisoners.

**Section 7-107. Suspension; Removal—**

1. Suspension or removal of any officer or employee shall be made pursuant to the rules of the police commission.

2. The chief of police shall have power to suspend any officer or employee for a period or periods not exceeding in the aggregate sixty days in any calendar year, for incompetence, neglect of duty, drunkenness, or failure to obey orders or for any other just cause, and such suspension shall be final.

**Section 7-108. Appeals—**

1. Any officer or employee, removed or suspended for a period exceeding, or which added to any previous suspensions exceeds, sixty days in any calendar year, may within ten days after service of the order of removal or suspension upon him, or, in case he cannot be found, within twelve days from the mailing of such order addressed to his last known address, apply to the police commission for a review of the case.

2. The police commission may in its discretion entertain the appeal. If it hears the appeal, it may affirm, set aside or modify such order or make such further order, as in its judgment the facts shall warrant.

3. The decision of the police commission refusing to entertain the appeal, or its order upon any appeal heard, shall be final.

4. No officer or employee shall receive any compensation for the period of any suspension, unless after entertaining the appeal the police commission shall so order.

**Section 7-109. Political Activities Prohibited**—Aside from exercising the right to vote, no member of the police department shall support, advocate or aid in the election or defeat of any candidate for public office. Any violation of this section by a member of the department shall be cause for summary dismissal from the department.

## ARTICLE VIII

### BOARD OF WATER SUPPLY

The board of water supply remains substantially the same. However, administrative matters are now handled by the manager while policy making functions remain with the board. The department is subject to centralized purchasing and to performance audit by the budget director as well as verification of receipts and expenditures as may be provided by the council. Op 59-61.

**Section 8-101. Organization**—There shall be a department of water, to be known as the "board of water supply," consisting of a board, manager and the necessary staff.

**Section 8-102. Definitions**—The terms "department" and "board" as used in this article shall have the following meanings:

(a) "Department" shall mean the governmental unit known as the "board of water supply," unless the context indicates otherwise.

(b) "Board" shall mean the policy-making body, consisting of seven members, of the board of water supply.

**Section 8-103. Powers, Duties and Functions of the Department**—

1. All water systems of the city including water rights and water sources, together with all materials, supplies and equipment and all real and personal property used or useful in connection with such water systems shall be under the control of the department.

2. The department shall have full and complete authority to manage, control and operate the water systems and properties used or useful in connection with such water systems.

3. The department shall:

(a) Make studies, surveys, investigations and estimates relating to the location and source of water supply within the city, the amounts available for current and prospective uses, the water resources which may be made available for such uses and the maximum productivity of such sources.

(b) Investigate, examine, inspect and ascertain the manner and extent of use or other disposition of any water by any person irrespective of ownership thereof, and any machinery, pump or other plant or equipment, and conduits, pipes or other means used for the elevation, transmission or distribution of water, upon either public or private property, and in the case of wells, ascertain, as far as practicable, the depth thereof, depth and thickness of the different strata penetrated, pressure, quantity, quality or chemical composition of the water, and the general conditions surrounding

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the same, including encasement, capping and other equipment or means of control thereof.

(c) Devise ways and means for the economic distribution and conservation of water.

(d) Make contracts necessary or convenient to the execution and performance of its powers, duties and functions.

4. To carry out the powers, duties and functions of the department, any member or authorized representative of the department may enter upon any public or private property at any reasonable time without warrant, doing no unnecessary injury thereto.

**Section 8-104. Board of the Department of Water**—The board shall consist of seven members. The chief engineer of the department of public works of the city and the director of transportation of the state (as amended by Act 2, SLH 1960) or the heads of successor agencies having substantially the same duties shall be members ex officio of the board. Five other members shall be appointed by the mayor with the approval of the council, for staggered terms of five years from the expiration of their respective predecessors' terms. Each member at the time of his appointment shall be an elector of the city and shall have been such for at least five years next preceding his appointment. Any vacancy other than by the expiration of a term of office shall be filled for the remainder of the unexpired term in the same manner as for an original appointment. The mayor with the approval of the council shall designate a member as chairman of the board. The affirmative vote of the majority of the membership shall be necessary to take any action. The members of the board shall receive no compensation but shall be entitled to be reimbursed for travelling and other necessary expenses actually incurred by them in the performance of their duties hereunder.

Act 94, SLH 1959, amending §149-86, RLH 1955, relating to general power of the council is not inconsistent. Op 60-54.

**Section 8-105. Powers, Duties and Functions of the Board**—The board shall:

(a) Appoint and remove the manager of the department who shall be known as the manager and chief engineer. He shall be a registered engineer who shall have had a minimum of five years of training and experience in waterworks activities or related fields, at least three years of which shall have been in a responsible administrative capacity.

(b) Fix the salary of the manager.

(c) Have the authority to create and abolish positions.

(d) Determine the policy for construction, additions, extensions and improvements to the water systems of the city which shall include a long range capital improvement program covering a period of at least six years which shall be adopted after consultation with the planning commission and which may be amended or modified from time to time.

(e) Have the authority to acquire by eminent domain, purchase, lease or otherwise, in the name of the city, all real property or any interest therein necessary for the construction, maintenance, repair, extension or operation of the water systems of the city. The council shall take no action

to acquire real property or any interest therein for the department without the written approval of the board.

(f) Have the authority to recommend to the city council the sale, exchange or transfer of real property or any interest therein which is under the control of the department. The council shall take no action to dispose of such property without the prior approval of the board, and all proceeds from the disposition of such property shall be paid into the special fund of the department.

(g) Have the authority to enter into arrangements and agreements as it deems proper for the joint use of poles, conduits, towers, stations, aqueducts and reservoirs for the operation of any of the properties under its management and control.

(h) Have the authority to issue revenue bonds under the name of "board of water supply".

(i) Modify, if necessary, and approve and adopt annual operating and capital budgets submitted by the manager.

(j) Prescribe and enforce regulations having the force and effect of law to carry out the provisions of this article, including (1) the regulation of water systems and necessary appurtenances for subdivisions and requiring adequate water supply and storage facilities for domestic use and fire protection, (2) the prevention of waste and pollution of water, (3) the manner in which new wells or shafts may be bored, drilled or excavated, cased and capped, or recased, (4) the manner in which wells or shafts shall be maintained, controlled and operated to prevent waste of water or the impairment of potability, (5) the limitation to beneficial uses of all water, (6) in times of shortage or threatened shortage of water, or of danger to potability of the water of any ground water basin or area by overdraft on such basin, the restriction of the drawing of water in all wells supplied from such basin on a basis proportionate to the proper and beneficial uses served by them respectively, (7) and other matters having for their object the proper conservation and beneficial use of the water resources available for the city.

(k) Hear appeals from the order of the manager refusing, suspending or revoking any permit for the sinking, drilling or reopening of any well or shaft for the development of underground water supply.

With reference to correspondence from the board of water supply, legislative matters should be referred to the council and executive matters should be referred to the office of the mayor. Op 59-94.

**Section 8-106. Powers, Duties and Functions of the Manager—The manager shall:**

(a) Administer the affairs of the department, including the regulations adopted by the board.

(b) Grant, suspend or revoke permits under conditions prescribed by the regulations of the department for the drilling, casing, recasing or reopening of any well or shaft for the development of underground water.

(c) Unless otherwise provided by this charter, sign all necessary contracts for the department.

(d) Appoint and remove members of the staff.

(e) Make recommendations to the board to create or abolish positions.

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(f) Prepare bills, collect and, by appropriate means including discontinuance of service and civil action, enforce the collection of charges for the furnishing of water and for water services.

(g) Prepare payrolls and pension rolls.

(h) Maintain proper accounts in such manner as to show the true and complete financial status of the department and the results of management and operation thereof.

(i) Prepare annual operating and capital budgets.

(j) Prescribe rules as are necessary for the organization and internal management of the department.

(k) Recommend regulations for adoption by the board.

**Section 8-107. Personnel Administration; Centralized Purchasing; Auditing; Pension—**

1. The department shall be subject to the civil service provisions of this charter.

2. The department shall be subject to the centralized purchasing and disposal of personal property provisions of this charter.

3. The department shall come within the purview of the performance audit conducted by the budget director and such verification of receipts and expenditures as may be provided for by the council.

4. Pensions for officers and employees shall be governed by general law.

The department is subject to centralized purchasing. Op 59-61. The department is subject to performance audit by the budget director. Op 59-61. The department is subject to verification of receipts and expenditures as may be provided by council. Op 59-61.

**Section 8-108. Independent Post Audit—**The accounts and financial status of the department shall be examined annually by a certified public accountant whose services shall be contracted for by the board and whose fees shall be paid as an expense of the department. The result of such examination shall be reported to the board and to the mayor.

**Section 8-109. Rates, Revenues and Appropriations—**The board shall have the power to fix and adjust reasonable rates and charges for the furnishing of water and for water services so that the revenues derived therefrom shall be sufficient to make the department self-supporting. Such revenues shall be sufficient to meet all necessary expenditures, including expenditures for (a) operating and maintenance expenses; (b) repairs, replacements, additions and extensions; (c) accident reserve, pension charges and compensation insurance; (d) for payment of principal and interest on all bonds, including reserves therefor, issued for the acquisition or construction of waterworks and extensions thereto, and (e) reserve fund under section 8-112. All water furnished to the city or any department thereof shall be charged to the respective departments and collected at the regular rates established by the board. There shall be no free water except as authorized by the legislature. The board may make appropriations for the purposes stated in this section.

**Section 8-110. Public Notice and Public Hearing—**The board shall hold public hearings prior to fixing and adjusting rates and prior to the adoption of the budget. Notice of the time and place of any hearing shall be published

at least ten days prior to such hearing in a daily newspaper of general circulation in the city.

**Section 8-111. Receipt and Disbursement of Funds**—The department shall make its own collections but all receipts shall be paid daily into the city treasury and maintained in a fund separate and apart from any other funds of the city.

All moneys expended by the department shall be disbursed with the written approval of the department according to procedures prescribed by the director of finance.

**Section 8-112. Reserve Fund**—The board may provide for the accumulation of a fund for the purpose of financing major replacements, or extensions and additions, the average estimated annual increment to which, for a period of ten years, shall not exceed fifteen per cent of the gross revenue of the department in any fiscal year.

**Section 8-113. Bond Sales**—The director of finance, when so directed by the board, shall sell such revenue bonds as may be authorized by the board for the acquisition, construction, replacement, extension or completion of water systems in accordance with the procedures prescribed by law for such sales. The proceeds from such sales shall be kept by the director of finance in a separate fund to be used only for the purposes for which the bonds were sold.

**Section 8-114. Special Deposits**—Whenever there are on deposit in the department of finance funds belonging to the department, in an amount greater than is necessary for the immediate needs of the department, the director of finance shall, upon the direction of the board, deposit such funds in such depositories as provided by law for the city. All interest received by the director of finance upon the funds so deposited shall be credited to the department. All interest from all other moneys of the department on deposit in any bank shall likewise be credited to the department.

**Section 8-115. Performance Bonds**—The board may require an individual or blanket bond in such amount as it shall deem proper for any or all employees which bond shall be duly conditioned for the faithful performance of duties, and the board may provide that the premium on the bond be paid out of the revenues of the department.

**Section 8-116. Legal Counsel**—The corporation counsel of the city shall be the legal adviser of the department and shall institute and defend, as the board may require, any and all actions involving matters under the jurisdiction of the department. He may, with the prior approval of the board, compromise, settle or dismiss any claim or litigation, for or against the department.

The compensation for such legal work shall be as agreed upon by the board and the city council and shall be paid from the revenues of the department.

The department may employ an attorney to act as its legal adviser and to represent the department in any litigation to which the department is a party.

**Section 8-117. Service of Process; Claims**—The department may sue and be sued under the name of the "board of water supply, city and county of Honolulu". Service of process in all matters affecting the department or any

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property under its jurisdiction may be made by service upon any member of the board or on the manager. Any action commenced or prosecuted for the recovery of damages for any injury to person or property by reason of negligence of the board or of any agents or employees of the department, shall be commenced and prosecuted against the department. No action shall be maintained for the recovery of damages unless a written statement verified by oath of claimant, setting forth the nature and items of the claim and the time and place where the alleged injury occurred, has been filed with the department within six months after the date of sustaining the injury.

**Section 8-118. Appeals—**

1. Any order of the manager refusing any permit or suspending or revoking any permit for the sinking, drilling or reopening of any well or shaft for the development of underground water shall be subject to an appeal therefrom to the board. The board shall have power to review and to affirm, modify or reverse any decision or order of the manager so appealed from. Such appeal shall be taken within ten days after service of the manager's order.

2. Any decision of the board upon such review shall be appealable directly to the supreme court of the State by any person who has been refused a permit or whose permit has been suspended or revoked. The court shall have power to review and to affirm, modify or reverse any decision or order of the board so appealed from and may determine all questions of fact or of law involved in the appeal. Such appeal shall be taken within ten days after service of the board's order, by filing notice of appeal with the clerk of the supreme court and serving a copy thereof upon the board stating the grounds therefor.

**Section 8-119. Applicability of Charter Provisions—**Except as otherwise provided, no provision of this charter other than those set forth in this article shall be applicable to the department.

**ARTICLE IX**

**FINANCIAL ADMINISTRATION**

Act 42, SLH 1959, amending §149-121, RLH 1955, relating to budget estimates is inconsistent and is therefore superseded. Op 59-184.

Note: §9-205 is non-existent.

**CHAPTER 1**

**OPERATING BUDGET**

**Section 9-101. Fiscal Year—**The fiscal year of the city shall be the calendar year until the thirtieth day of June 1961, unless sooner changed by the council. Thereafter, the fiscal year shall begin on the first day of July and end on the thirtieth day of June of the succeeding year.

The budgetary period for 1960 is the calendar year. Op 59-52, Op 59-76.

**Section 9-102. Preparation of the Operating Budget—**The council and all agencies seeking appropriations from the council shall submit to the budget director on forms prepared by him requests for appropriations for the ensuing fiscal year, supported by work programs. The budget director shall then prepare a preliminary budget for the consideration of the mayor which shall include all budget requests and the recommendations of the budget director with respect

to each request. The mayor shall review the preliminary budget and may hold formal or informal hearings thereon. The budget director shall thereupon prepare the operating budget under the direction of the mayor.

The estimated revenues will be included in the operating budget. Op 59-76.

**Section 9-103. Submission to Council—**Not less than forty-five days before the ensuing fiscal year begins, the mayor shall submit to the council his recommended budget together with a budget message accompanied by proposed revenue and operating budget ordinances. The mayor's message shall discuss the city's financial condition and prospects, explain both in terms of money and work programs the important features of the operating budget and outline the financial policies the mayor proposes for the ensuing budget year. The proposed operating budget ordinance shall indicate the relationship of requested appropriations to work programs.

There shall be appended to the operating budget a statement of the transactions of each of the pension systems, trust proceeds funds, debt service funds, and revolving funds for the preceding fiscal year, for the first six months of the current fiscal year and anticipated transactions for the remainder of the current and for the ensuing fiscal year.

**Section 9-104. Consideration and Adoption by Council—**

1. Upon receipt of the operating budget the council shall immediately publish a notice in a daily newspaper of general circulation in the city setting forth, (a) a summary of the estimated revenues and expenditures, (b) the detail of recommended new sources of revenue or increased rates for existing licenses, fees, or other revenues, (c) that copies of the budget are available at the office of the city clerk, (d) the date, time, and place at which the council will commence its public hearings upon the proposed budget, which shall not be less than ten days after the date of publication of such notice.

Upon the conclusion of the hearings, the council may reduce any item or items in the mayor's budget by a majority vote and may increase any item or items therein or add new items thereto by an affirmative vote of two-thirds of the entire membership. The council shall enact the operating budget ordinance not less than fifteen days before the ensuing fiscal year begins. If final action is not taken on or prior to such day, the operating budget ordinance as submitted shall be deemed to have been enacted.

2. Amendments to the annual operating budget ordinance may be submitted by the mayor and considered by the council under the same procedures prescribed for the enactment of the operating budget ordinance, but no amendment shall increase the aggregate of authorized expenditures to an amount greater than the estimate of revenues for the fiscal year.

**Section 9-105. Administration and Enforcement of the Operating Budget Ordinance—**

1. The enactment of the operating budget ordinance shall constitute an appropriation of the sums specified therein for the purposes and from the funds indicated. Such appropriation shall be considered valid only for the fiscal year for which made, and any part of such appropriation which is not encumbered or expended shall lapse at the end of the fiscal year. Agencies authorized to make expenditures under the operating budget ordinance may proceed without

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other authority from the council to incur obligations or make expenditures for proper purposes to the extent that the moneys are available.

2. Immediately following the enactment of the operating budget ordinance, the heads of all agencies shall submit to the budget director schedules supported by work programs, showing the expenditures anticipated for each quarter of the fiscal year.

3. The approval of an expenditure schedule by the mayor shall constitute a budgetary allotment which shall, unless a revision thereof is approved by the mayor, be binding upon such agencies and the director of finance shall approve or issue no requisition, purchase order, voucher or warrant that is not in accordance with such allotment.

4. The allotments herein provided may be altered at any time by the mayor. The mayor shall direct appropriate revisions in allotments to keep expenditures within the revenues received or anticipated.

5. Any part of an allotment which is not expended or encumbered shall lapse at the end of the allotment period.

6. The mayor may at any time transfer an unencumbered appropriation balance or portion thereof within a division, or between divisions in the same department. Transfers between departments, boards or commissions shall be made only by the council by ordinance upon the recommendations of the mayor, but such transfers shall not be made during the last three months of any fiscal year.

7. The director of finance and his surety shall be liable for any moneys withdrawn from any operating fund other than in accordance with the operating budget and allotments.

The mayor may transfer unencumbered funds within a department. Op 59-52, Op 59-106. The mayor may not lawfully transfer funds between departments. Upon the mayor's recommendation, the council may effect a transfer of funds between departments. Op 59-52, Op 59-96. Until the adoption of the operating budget ordinance pursuant to the charter, the purchase of equipment over \$50.00 requires the approval of the council. Op 59-112. After the effective date of the charter any unencumbered balance of an allotment will be lapsed at the end of the allotment period. Op 59-114. The mayor may reallocate funds which are lapsed at the end of the allotment period. Op 59-158. The mayor may transfer an unencumbered appropriation balance for purposes other than the specific purpose for which the appropriation was made. Op 59-158. The traffic engineer is responsible for publicly advertising and calling for bids for the construction of street lighting systems. Op 60-9.

**Section 9-106. Other Appropriations**—The council may not make any operating appropriations other than to supplement those included in the annual operating budget ordinance except:

(a) To meet contingencies which could not be anticipated when the operating budget ordinance was passed and then only upon the recommendation of the mayor.

(b) To pay the expense of holding special elections and elections on proposals to amend this charter.

(c) To pay the costs of investigations and inquiries by the council and the compensation of special counsel as authorized by this charter.

Unless paid for out of current revenues, all amounts appropriated under this section must be included as liabilities of the city in the next succeeding annual operating budget ordinance and, except to meet emergencies as declared

by the mayor, operating expenses shall neither be appropriated nor paid out of loan funds.

## CHAPTER 2

### CAPITAL PROGRAM AND CAPITAL BUDGET

#### **Section 9-201. Preparation of the Capital Program and Capital Budget—**

1. The capital program and capital budget shall include:

(a) Permanent public improvements, but not the repair or maintenance thereof.

(b) The acquisition of land or any interest therein for any permanent public improvements.

(c) The furnishings, fixtures and appurtenances of any permanent improvement when first constructed or acquired.

2. Each agency of the city government seeking appropriations from the council shall, at such time as the planning commission requires, present to the planning director a list of all the expenditures for permanent public improvements which it is making or which it believes should be made in conjunction with its work during the six fiscal years next ensuing. Such agencies shall also furnish such pertinent data, including methods of financing, required by the planning commission, with reference to improvement projects in the process of construction or acquisition as well as new projects proposed by such agencies.

3. The planning commission shall annually obtain from the director of finance a statement of the moneys likely to be available during each of the next six fiscal years and the amount of bonds which the mayor believes it would be proper for the city to issue during such period. The commission shall then prepare a capital program in which it shall recommend the projects to be undertaken in each of the next six years and shall state the amount and source of moneys recommended to be used for each project. The commission shall also state its reasons for excluding any project proposed by the different agencies. The proposed capital program shall not be in conflict with the general plan and shall be submitted to the mayor not less than seventy-five days before the ensuing fiscal year begins.

4. The mayor shall, upon receipt of the capital program from the planning commission, review the program and shall make any revisions deemed necessary. He shall then prepare a message to the council containing pertinent information with regard thereto and, if he revises the program, give his reasons therefor. The budget director shall thereupon prepare a proposed capital budget ordinance for the first fiscal year covered by the program which shall show in detail the capital expenditures to be made or obligations to be incurred during the ensuing fiscal year.

**Section 9-202. Submission to Council—**The mayor shall, not less than forty-five days before the ensuing fiscal year begins, submit to the council the capital program, the capital program message and the proposed capital budget ordinance. Sufficient copies of the capital program, the capital program message and the capital budget ordinance shall be supplied by the mayor to the clerk for distribution to members of the council and to interested citizens. The program, message, ordinance and related exhibits and other explanatory matters shall be open to public inspection in the office of the city clerk.

**Section 9-203. Consideration and Adoption by the Council—**

1. Upon receipt of the capital program and capital budget ordinance, the council shall immediately publish a notice in a daily newspaper of general circulation in the city setting forth summaries of the capital program and capital budget ordinance, and other data deemed desirable together with the date, time and place at which the council will commence its public hearings on the proposed program and budget. The council shall hold such hearings not less than ten days after the publication of such notice.

2. The council may adopt the capital program with or without amendments, but no amendment shall be made until the council has requested and received through the mayor the recommendations of the planning commission with respect to the proposed amendment. The council shall not be bound by such recommendations and may act without them if they are not received within ten days from the date they are requested. The capital program shall be adopted and the capital budget ordinance enacted by the council not less than fifteen days before the ensuing fiscal year begins. Should the council fail to take final action on or prior to such day, the capital program and the capital budget ordinance, as submitted, shall be deemed to have been adopted and enacted, respectively.

3. Amendments to the capital budget ordinance must conform to the capital program, as amended, and shall be made only after requesting and receiving through the mayor the recommendations of the planning commission. The council shall not be bound by such recommendations and may act without them if they are not received within ten days from the date they are requested.

New projects may be added during the fiscal year only by an amendment to the capital budget ordinance. Op 59-52. The mayor may, pursuant to the provisions of §9-105(6), transfer unencumbered operating budget appropriations within a department. He does not, however, have the power with respect to capital improvements budget appropriations. Op 59-196, (amending Op 59-52). The council may amend the capital program and the capital budget ordinance at any time. Op 59-216.

**Section 9-204. Administration and Enforcement of the Capital Budget Ordinance—**

1. Appropriations specified in the capital budget ordinance shall be considered valid only for the fiscal year for which made, and any part of such appropriations which is not encumbered or expended shall lapse at the end of the year. Agencies authorized to make expenditures under the capital budget ordinance may proceed without other authority from the council to incur obligations or make expenditures for proper purposes to the extent that the moneys are available.

In construction contracts an appropriation is encumbered when the award of contract is made by the administrative agency (supersedes Op 60-4). Op 60-51.

2. The director of finance shall be responsible for the enforcement of the capital budget ordinance to the same extent as he is responsible for the enforcement of the operating budget ordinance.

§9-30, RLH 1955, which provides that the council shall authorize calls for bids and shall award the contract is superseded. Op 60-6. The officer of the city authorized to award a contract may permit a bidder to withdraw his bid. Op 60-25.

(Section 9-205 is non-existent.)

**Section 9-206. Improvement Revolving Fund**—There may be established a revolving fund for the purpose of acquiring real estate and constructing improvements thereon. Moneys in the fund may be used to option, purchase, lease, make down payments, and take other actions necessary to acquire real estate or any interest therein for specific public purposes related to the development of the city as proposed in the general plan and development plans. No expenditure from this fund shall be made unless reviewed and reported on by the planning commission and approved by the council. Reimbursements to this fund shall be made from the appropriated funds of any project for which such expenditures are made, and such reimbursements shall be effected immediately upon the appropriation of funds for such project.

### CHAPTER 3

#### FUND ADMINISTRATION

**Section 9-301. Deposit of Funds**—Money received by officers and employees shall be deposited promptly to the city's account in depositories authorized by law. The depository account shall indicate the name of the fund, department, board or beneficiary for whom deposited.

**Section 9-302. Creation of Funds**—In addition to the funds established by this charter, the mayor, with the approval of the council, may establish other funds when necessary and when no appropriate class of funds exists.

### CHAPTER 4

#### PROCUREMENT AND DISPOSITION OF PROPERTY

**Section 9-401. Centralized Purchasing**—

1. The department of finance shall be responsible for the procurement of all materials, supplies, equipment and services required by any agency of the city.

2. There shall be a standardization committee composed of five members. The mayor shall appoint four members, each of whom shall be from a separate department. The fifth member shall be a representative of the department of finance who shall serve as chairman of the committee. The committee shall classify all materials, supplies, and equipment commonly used by the various agencies of the city and shall prepare and adopt standards and specifications for such materials, supplies and equipment.

3. All purchases and contracts for materials, supplies, equipment and services shall be made by advertising except that such purchases and contracts may be negotiated without advertising if:

(a) The public exigency will not admit of the delay incident to advertising;

(b) The aggregate amount involved does not exceed \$4,000.00; however, any purchases or contracts involving sums between \$500.00 and \$4,000.00 shall be based on competitive bids which shall be in writing.

(c) For materials, supplies and equipment, including animals and plants, patented or proprietary articles and books and publications for which it is impracticable to secure competition;

(d) For equipment determined to be technical equipment and as to which it is determined that the procurement thereof without advertising is necessary to assure standardization of the equipment and interchangeability of parts, and that such standardization and interchangeability are necessary in the interest of economy.

The advertisement for bids shall be made a sufficient time before the purchase or contract, and specifications and invitations for bids shall permit such full and free competition as is consistent with the procurement of the types of materials, supplies, equipment and services necessary to meet the requirements of the agency concerned.

All bids shall be publicly opened at the time and place stated in the advertisement. Award shall be made with reasonable promptness by written notice to that responsible bidder whose bid conforming to the invitation for bids will be most advantageous to the city, price and other factors considered.

4. Purchase orders shall be submitted to the director of finance for approval as to availability and designation of funds and no purchase order shall be valid without such approval.

5. The director of finance shall, from time to time, secure from all agencies estimates of their needs for articles of common use and shall, when practicable, consolidate requisitions in order to secure the benefits of quantity purchases, and to that end, when authorized by the council, cooperate with other public agencies.

6. The director of finance may by rules provide for:

(a) Emergency purchases which might be required.

(b) Petty cash funds or blanket purchase orders, or both.

7. All city storerooms (other than departmental) shall be supervised and operated by the director of finance.

8. The director of finance shall require such guarantees of performance by vendors as in his opinion may be necessary or may be prescribed by ordinance.

The director of finance must advertise for bids and may not negotiate for the purchase of, or confine the invitation for bids to, popular brand cars. Op 59-211. The director of finance is authorized to award a contract for the purchase of equipment and supplies without the approval of the council. Op 60-13. The director of finance may make the ultimate selection of independent contractors. Op 60-36. Act 112, SLH 1959, amending §149-131, RLH 1955, relating to the bureau of purchases and supplies is inconsistent and superseded. Op 60-58.

**Section 9-402. Disposition of Personal Property**—All agencies having materials, supplies or equipment which are not useful to them shall from time to time and at least annually furnish a list thereof to the director of finance who shall examine such property and if the same is found to be usable, it shall be returned to the general storeroom or inventoried for subsequent issue upon requisition. If it is found to be unusable for public purposes, the director of finance, after fixing a minimum price for the property, shall cause it to be exchanged or sold at public auction to the highest bidder for not less than the minimum price established, after advertisement twice in one week in a daily newspaper of general circulation in the city, and the proceeds shall be placed in the fund from which the original purchase was made.

**Section 9-403. Insurance**—The director of finance shall procure insurance

for the protection of all properties of the city in such amounts and under such conditions as the council shall by ordinance prescribe from companies licensed to do business in the State. With reference to property under the control and management of the board of water supply, however, its board may specify the kind and amount of insurance to be procured.

**Section 9-404. Surety Bonds**—Except as otherwise provided, the council shall determine which officers and employees shall be required to furnish surety bonds and shall determine the kind and amount of each individual or blanket bond. All officers concerned with the receipt, collection, custody or disbursement of public funds shall be bonded. The director of finance shall procure all such surety bonds from companies licensed to do business in the State. All such bonds shall be in favor of and the premiums thereon shall be borne by the city.

**Section 9-405. Contracts**—

1. Before execution, all written contracts to which the city is a party shall be approved by the corporation counsel as to form and legality. Except as otherwise provided, all such contracts shall be signed by the mayor.

2. Before execution, contracts involving financial obligations of the city shall also be approved by the director of finance as to the availability of funds in the amounts and for the purposes set forth therein. Such contracts shall not extend beyond the term for which an appropriation to finance such obligations has been made, except as otherwise provided by this charter. This paragraph shall not apply to obligations for the procurement of utility services.

The mayor will sign all written contracts for the city, with the exception of contracts enumerated in §5-403 (e), which will be executed by the director of finance. Op 59-126. The mayor will execute all construction contracts. Op 59-127. The director of finance may not lawfully approve contracts for construction of projects for which state funds have been appropriated until said funds have been allocated to the city by the state budget bureau. Op 59-147.

## ARTICLE X

### SPECIAL ASSESSMENT IMPROVEMENTS

**Section 10-101. Improvements by Special Assessments**—The council shall enact the provisions of Chapter 153 of the Revised Laws of Hawaii 1955, with the exception of Sec. 153-3 of said chapter, as a city ordinance. No changes, however, shall be made by the council regarding any matter under the control of the board of water supply without the prior approval of its board. Exemptions from special assessments and reimbursement of costs to the city shall be as provided by law.

The chief engineer's reports should be routed through the mayor's office. Op 59-94. Improvement district resolutions need not be referred to the mayor. Op 59-104. Authorization to issue improvement bonds should be by resolution and not by ordinance. Op 59-150. Act 57, SLH 1959, amending §153-2, RLH 1955, relating to construction of sanitary sewerage system is not inconsistent. Op 60-53.

Note: Improvement district ordinance was adopted August 7, 1959, (See Ordinance 1719).

**ARTICLE XI  
CODE OF ETHICS**

**Section 11-101. Standards of Conduct—**

1. No employee, councilman or other officer of the city shall:

(a) Accept any gift, favor or service that might reasonably tend to influence him in the discharge of his official duties, but nothing contained herein shall preclude the acceptance of contributions for election campaigns.

(b) Use his official position to secure special privileges or exemptions for himself or others.

(c) Disclose confidential information gained by reason of his official position, nor shall he otherwise use such information for his personal gain or benefit.

(d) Engage in any transaction as representative or agent of the city with any business entity in which he has direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.

(e) Receive any compensation for his services as an officer or employee of the city from any source other than the city, except as otherwise provided by law.

2. Any employee, councilman or other officer who possesses or who acquires such interests as might reasonably tend to create a conflict with the public interest shall make a full disclosure in writing to his appointing authority or to the council in the case of an elective officer, which shall be made a matter of public record, at any time that such conflict becomes apparent.

3. No appointive officer or employee may engage in outside employment or in any business or professional activity which may impair his independence of judgment in the exercise of his official duties, or which might require or induce him to disclose confidential information acquired by reason of his official position or which is otherwise inconsistent or incompatible with or which interferes with the proper discharge of his official duties.

4. Any member of the council who knows he has a personal or private interest, direct or indirect, in any action proposed or pending before the council shall disclose such interest in writing to the council which shall be of public record prior to the taking of any vote thereon.

**Section 11-102. Non-Compliance—**The failure to comply with or any violation of one or more of the foregoing standards of conduct by any elective or appointive officer or by any employee shall be additional grounds for the impeachment of elective officers and for the removal from office or from employment of all other officers and employees. Nothing contained herein shall preclude any other remedy available against such officer or employee.

**ARTICLE XII  
GENERAL PROVISIONS**

**Section 12-101. Definitions—**

1. The term "agency" shall mean any office, department, board, commission or other governmental unit of the city.

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2. The term "executive agency" shall mean any agency of the executive branch of the city government, excluding the board of water supply.

3. The term "employee" shall mean any person, except an officer, employed by the city or any agency thereof but the term shall not include an independent contractor.

4. The term "officer" shall include the following:

(a) Mayor, members of the council, managing director and the budget director.

(b) Any person appointed as administrative head of any agency of the city or as a member of any board or commission provided for in this charter.

(c) Any person appointed by a board or commission as the administrative head of such agency.

(d) The first deputy or a division chief appointed by the administrative head of any agency of the city.

(e) Deputies of the corporation counsel and the prosecuting attorney.

5. The term "Organic Act" shall mean the Hawaiian Organic Act, but should Hawaii become a state the term "state constitution" shall be substituted in lieu thereof.

**Section 12-102. Title to Property**—Except as otherwise provided by law, title to all property acquired by any agency of the city shall be vested in the city.

**Section 12-103. Facsimile Signatures**—Whenever any person is required to sign negotiable instruments or multiple bonds, the signature may be a facsimile.

**Section 12-104. Payment of Moneys out of the City Treasury**—All disbursements of city controlled funds shall be made pursuant to procedures prescribed by the director of finance.

The director of finance may establish and prescribe an internal pre-audit. Op 59-76. Act 106, SLH 1959, amending §151-14, RLH 1955, relating to disbursement procedures for parks board funds is inconsistent and superseded. Op 59-209.

**Section 12-105. Expenses**—Subject to procedures prescribed by the director of finance and approved by the mayor, all officers and employees of the city shall be entitled to their travelling or other necessary expenses actually incurred in the performance of their public duties.

The director of finance and the mayor will authorize mileage allowances. Op 59-123.

**Section 12-106. Claims**—No action shall be maintained for the recovery of damages for any injury to person or property by reason of negligence of any official or employee of the city unless a written statement stating fully when, where and how the injuries occurred, the extent thereof and the amount claimed therefor, has been filed with the city clerk within six months after the date the injury was sustained.

**Section 12-107. Annual Reports**—

1. Not later than ninety days after the close of the fiscal year, each agency of the city shall make an annual written report of its activities to the mayor in such form and under such rules as the mayor may prescribe.

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2. Not later than one hundred eighty days after the close of the fiscal year, the mayor shall publish an annual report concerning the activities of all agencies of the city. A copy of such report shall be filed in the office of the city clerk.

**Section 12-108. Declaration of Emergencies**—The mayor may declare emergencies when the peace, property, health, safety, or morals of the community are endangered, but his failure or refusal to make such a declaration shall not preclude the council from finding that an emergency exists under the provisions of section 3-202.

**Section 12-109. Acceptance of Gifts or Donations**—The council on behalf of the city may accept gifts or donations of money, securities or other personal property or of real estate or any interest in real estate.

**Section 12-110. Records and Meetings Open to Public**—

1. All books and records of every agency of the city shall be open to the inspection of any citizen at any time during business hours. Certified copies or extracts from such books and records shall be given by the officer having custody of the same to any person demanding the same, and paying or tendering a reasonable fee to be fixed by the council for such copies or extracts; but the records of the police department or of the prosecuting attorney shall not be subject to such inspection unless permission is given by the chief of police or the prosecuting attorney, except in the case of traffic accidents where such records, including all statements taken, shall after the termination of any criminal proceeding arising out of any such accident, or in any event after six months from the date of such accident, be available for inspection by the parties directly concerned in such accident, or their duly licensed attorneys acting under written authority signed by either party. Any person who may sue because of death resulting from any such accident shall be deemed a party directly concerned.

2. All meetings of boards and commissions shall be held in the city hall or other public places and no such body shall take any official action except at a meeting open to the public.

Act 43, SLH 1959, relating to the inspection of public records is inconsistent and superseded. Op 59-164.

**Section 12-111. Oaths, Attendance of Witnesses and Production of Documents**—Every officer or agency of the city authorized to hold hearings or to conduct investigations shall have power to administer oaths and to issue subpoenas to compel the attendance of witnesses and the production of documents. If any person subpoenaed as a witness, or to produce any books or papers called for by the process of the investigating body shall fail or refuse to respond thereto, or refuse to answer questions propounded by any member of the investigating body or its counsel material to the matter pending before such body, the circuit court upon request of the investigating body shall have power to compel obedience to any process of such body and require such witness to answer questions put to him as aforesaid, and to punish as a contempt of the court, any refusal to comply therewith without good cause shown therefor.

**Section 12-112. Penalties**—The council shall by ordinance provide for the punishment of violations of any provisions of this charter and may provide for punishment of violations of ordinances and regulations, but no penalty shall

exceed the amount of \$1,000.00 or one year's imprisonment, or both. Prosecutions in such cases shall be as provided by law for the prosecution of misdemeanors.

**Section 12-113. City Elections**—City elections shall be conducted in accordance with the election laws of the State insofar as applicable but the city primary and general elections shall be held in every fourth year following the initial election.

The candidates for the offices of mayor and councilman must be listed on separate ballots for the primary election. Op 59-141. §11-99 and §149-33, RLH 1955, relating to listing of candidates on separate ballots are not inconsistent. Op 59-141.

**Section 12-114. Term of Office of Department Heads**—The term of office of department heads shall be coterminous with that of the appointing authority. Pending the appointment of the department head, all deputies shall continue in office until a new department head is appointed, with the highest ranking deputy acting as department head.

**Section 12-115. Oaths of Office**—Before entering upon the duties of his office, each officer elected or appointed shall subscribe to the following oath or affirmation before some person duly qualified to administer oaths:

"I solemnly swear (or affirm) in the presence of Almighty God, that I will faithfully support the constitution and laws of the United States of America, the laws of the State of Hawaii and the laws of the city and county of Honolulu, and conscientiously and impartially discharge my duties as \_\_\_\_\_ of the city and county of Honolulu."

**Section 12-116. Dual Offices or Positions**—No person shall hold more than one public office or position under the city or hold such office or position while holding any other office or position in or under the government of the United States or of the State but nothing contained herein shall preclude the holding of an ex officio office. In this section, the term "public office" shall not include notaries public, reserve police officers or officers of emergency organizations for civilian defense or disaster relief.

Compensation for dual positions is not allowed. Op 59-136.

**Section 12-117. Coordination of Work**—The several agencies of the city shall devise a practical and working basis for cooperation in and coordination of work, eliminating duplication and overlapping of functions, and shall so far as practicable cooperate with each other in the use of employees, land, buildings, quarters, facilities and equipment. The head of any agency may empower or require an employee of another agency, subject to the consent of the head of such other agency, to perform any duty which he might require of the employees of his agency. Whenever in this charter power is vested in an agency to inspect, examine, or secure data or information or to procure assistance from any other agency, a duty is hereby imposed upon the agency upon which demand is made to render such power effective.

The hauling of tree trimmings for disposal by the department of parks and recreation may be coordinated with work of other agencies such as the division of refuse collection and disposal. Op 59-144. The department of traffic may request and authorize the city clerk to advertise and call for bids on its behalf. Op 60-9. The urban renewal coordinator with the consent of the

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Honolulu redevelopment agency may empower the agency to perform the coordinator's relocation functions and when so engaged the agency will be acting as the agent of the coordinator. Op 60-11.

**Section 12-118. Cooperation with Other Agencies**—In the performance of its functions, each agency of the city shall cooperate with private agencies and with agencies of the governments of the United States, the State and any state and with any of their political subdivisions having similar functions.

**Section 12-119. Provisions of Charter Inoperative, When**—If any provision of this charter jeopardizes the receipt by the city of any federal grant-in-aid or other federal allotment of money, such provision may insofar as such fund is jeopardized, be waived by the council upon recommendation of the mayor.

**Section 12-120. Titles, Subtitles, Personal Pronouns; Construction**—Titles and subtitles shall not be used for purposes of construing this charter.

When any personal pronoun appears in this charter, it shall be construed to mean either sex.

**Section 12-121. Severability Clause**—If any part of this charter is for any reason declared unconstitutional or invalid, the other separable parts thereof shall not be affected thereby.

### ARTICLE XIII

#### CHARTER AMENDMENT OR REVISION

**Section 13-101. Initiation of Amendments or Revisions**—Except as hereinafter provided, amendments or revisions of this charter may be initiated only in the following manner:

(a) By resolution of the council adopted after three readings on separate days and passed by an affirmative vote of two-thirds of its entire membership.

(b) By petition presented to the council, signed by qualified electors equal in number to at least ten per cent of the entire vote cast for mayor in the last preceding mayoralty election, setting forth the proposed amendments or revisions. Such petition shall designate and authorize not less than three nor more than five of the signers thereto to approve any alteration or change in the form or language or any restatement of the text of the proposed amendments or revisions which may be made by the corporation counsel.

Each elector signing such petition shall add to his signature, his residence and the date of signing. Signatures may be on separate sheets but each sheet shall have appended to it the affidavit of some person, not necessarily a signer of the petition, that to the best of the affiant's knowledge and belief the persons whose signatures appear on the sheet are registered electors of the city, that they signed with full knowledge of the contents of the petition and that their residences are correctly given.

Upon filing of such petition with the council, the city clerk shall examine it to see whether it contains a sufficient number of apparently genuine signatures of registered voters. The clerk may question the genuineness of

any signature or signatures appearing on the petition and if he finds that any such signature or signatures are not genuine, he shall disregard them in determining whether the petition contains a sufficient number of signatures. The clerk shall eliminate any sheet of the petition which is not accompanied by the required affidavit. The invalidity of any sheet shall not affect the validity of the petition if a sufficient number of signatures remains after eliminating such invalid sheet. The clerk shall complete his examination of the petition within fifteen days.

The council shall then hold a public hearing and shall consider the question as to whether the amendments or revisions proposed shall be submitted to the electors for approval or disapproval. The determination by the council to submit such proposed amendments or revisions to the electors shall be by resolution adopted by an affirmative vote of a majority of the entire membership of the council within forty-five days after the receipt of the petition.

(c) Not less than eight but not more than ten years after the adoption of the charter, the electors of the city shall be entitled to propose amendments with respect to the number of councilmen and whether they shall be elected by districts, at large, or by a combination of districts and at large, which shall not require the approval of the council. Other than the requirement of council approval and resolution, the initiation and adoption of such amendments shall be subject to the provisions applicable to other amendments initiated by petition.

**Section 13-102. Elections to be Called—**

1. Any resolution of the council initiating an amendment or revision to the charter shall provide that the resolution shall be submitted to the electors of the city at the next general election.

2. Any resolution authorizing the submission to the electors of amendments or revisions proposed by petition shall provide for the publication of the proposed amendments or revisions at length in a daily newspaper of general circulation in the city at least forty-five days prior to submission to the electors and for submission of the proposed amendments or revisions to the electors of the city at the next general election.

**Section 13-103. Approval of Amendment or Revision—**No amendment or revision of this charter shall be effective unless approved by a majority of the voters voting thereon.

**Section 13-104. Effective Date of Amendment or Revision—**Any amendment or revision approved by the electors of the city shall become effective at the time and under the conditions specified in the amendment or revision.

**Section 13-105. Mandatory Review—**Sixteen years after the adoption of the charter and at intervals of sixteen years thereafter, the mayor with the approval of the council shall appoint a charter commission composed of nine members, to study and review the operation of the government of the city under this charter. The commission may propose amendments to the existing charter or a draft of a new charter which shall be submitted to the city clerk. Upon receipt of the amendments or charter, the city clerk shall provide for the submission of such amendments or charter to the electors of the city at a

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special election which shall be called by the mayor. Such special election shall be held not less than forty-five nor more than seventy-five days after receipt of the amendments or charter by the city clerk. If a general election is to be held within one hundred fifty days from the time the amendments or charter is received by the city clerk, however, the amendments or charter shall be submitted to the electorate at such general election.

The commission shall publish not less than forty-five days before any election, at least once in a daily newspaper of general circulation within the city, a brief digest of the amendments or charter and a notice to the electorate that copies of the amendments or charter are available at the office of the city clerk.

**ARTICLE XIV  
TRANSITION SCHEDULE**

**Section 14-101. Effective Date of Charter**—All provisions of this charter shall become effective as of the first day of July 1959, except that:

(a) The composition and organization of the existing board of supervisors shall not be affected prior to the second day of January 1961 at which time the members of the council provided for by this charter shall take office. In addition thereto the provisions relating to an independent post audit, the verification of receipts and expenditures and the appointment of the city clerk by the council shall take effect on the second day of January 1961. The elected city clerk shall continue to exercise and perform the powers, duties and functions imposed upon him by law until the terms of office of the first mayor and council begin under this charter. Thereafter, the office of the elected city clerk shall stand abolished.

(b) The powers, duties and functions of the elected treasurer and auditor which are assigned to the director of finance by the provisions of this charter, shall continue to be exercised and performed by the treasurer and auditor, respectively, until the terms of office of the first mayor and council begin under this charter. Thereafter, the offices of the treasurer and auditor shall stand abolished.

(c) Each member of the civil service commission holding office at the effective date of this charter shall continue in office until his term of office expires unless a vacancy occurs before such date.

(d) (Deleted)

(e) The appointed members of the existing board of public parks and recreation holding office at the effective date of this charter shall continue in office until the terms of office of the first mayor and council begin under this charter.

(f) The powers, duties and functions vested in the coroner's physician shall continue to be exercised and performed by the city and county physician until the terms of office of the first mayor and council begin under this charter.

(g) The provisions relating to the medical examiner shall become effective as of the second day of January 1961.

(h) The powers, duties and functions vested in the elected sheriff, which are assigned to the chief of police by this charter, shall continue to be

exercised and performed by the sheriff until the terms of office of the first mayor and council begin under the terms of this charter. Thereafter, the office of sheriff shall stand abolished.

(i) Notwithstanding the provisions of section 4-102 of this charter, no change shall be made in the provisions relating to the department of traffic and to the office of the medical examiner within four years of the effective date of this charter.

Each member of the civil service commission shall continue in office until his term of office expires. Op 59-50. The office of the coroner's physician terminates January 2, 1961. Op 59-51. The elective office of the city clerk will be abolished on January 2, 1961. Op 59-53. The elective office of the auditor will be abolished on January 2, 1961. Op 59-60, Op 59-76. The elective office of the sheriff will be abolished on January 2, 1961. Op 59-62. The elective office of the treasurer will be abolished on January 2, 1961. Op 59-63, Op 59-76. The board of public parks and recreation becomes an advisory board and the incumbents will serve until January 2, 1961. Op 59-69. On January 2, 1961, the chief of police will assume all the duties performed by the sheriff except the function of coroner. Op 59-71. The office of budget director comes into existence on July 1, 1959. Op 59-76. The department of finance comes into existence on July 1, 1959. Op 59-76. The office of the controller is abolished effective July 1, 1959. Op 59-76. The legislative body of the city and county of Honolulu should, after July 1, 1959, be called the city council and the members thereof, councilmen. Op 59-98. The mayor will continue to preside at council meetings until January 2, 1961. Op 59-99. The persons who are to conduct the cash count until January 2, 1961 are the auditor and a person designated by the council. Op 59-102.

Note: Act 87, SLH 1959, grants the treasurer the discretion to discard vehicle registration records older than 6 years.

**Section 14-102. Initial Election under the Charter**—The first city primary election under this charter shall be held on the first Saturday of October in 1960 and the first city general election shall be held on the first Tuesday following the first Monday of November in 1960.

**Section 14-103. Transfer of Employees, Records, etc., of Certain Elective Offices**—The administrative code to be adopted pursuant to section 4-102 of this charter shall also provide for the transfer of employees, records and equipment of the offices of the elected clerk, auditor, treasurer and sheriff to be effective as of the date such offices are abolished.

A transfer of employees, records and equipment of the clerk's, sheriff's, auditor's and treasurer's offices will be provided for by the administrative code. Ops. 59-53, 59-60, 59-62, 59-63.

Note: Act 87, SLH 1959, grants the treasurer discretion to discard vehicle registration records over 6 years old. Act 27, SS 1959, pertains to the transfer of employees as a result of the abolishing or reorganization of agencies pursuant to the charter of the city.

**Section 14-104. Abolition of the Suburban Water System and Transfer of Records, Property and Personnel**—

1. Effective as of the first day of January 1960, the suburban water system of the city shall stand abolished and all records shall be transferred to the board of water supply. The exclusive control, management and operation of all funds and assets, including water and water rights, properties, both real and personal, equipment and supplies used in connection with the suburban water system shall also be transferred to and vested in the board of water supply. Thereafter, that department shall have the duty and authority to manage, control, maintain and operate all of the properties of said suburban water system acquired in connection therewith, as well as the properties of the present

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board of water supply, for the purpose of supplying water to the public within the city.

2. Upon the transfer of the funds and assets of the suburban water system, the board of water supply shall assume and become liable for the payment of all outstanding obligations of the suburban water system. However, the board of water supply shall not assume nor be liable for the payment of the principal or interest on the public improvement bond authorized to be issued by the board of supervisors of the city and county of Honolulu under section 2(i) of Act 289, SLH 1957, for the "Pearl Harbor Basin to Waianae Areas Water System," or for the public improvement bonds authorized to be issued by the State under item "u" of section 8-1 of Act 150, SLH 1957, for "Planning and construction of water system to transport water from Pearl Harbor Basin to Waianae areas, etc."

3. All of the moneys in the city treasury belonging to any fund of said suburban water system at the time the board of water supply shall take over the management and control of said suburban water system, and all moneys thereafter collected belonging to any such fund shall forthwith be placed to the credit of the board of water supply by the director of finance of the city. Moneys in funds established to pay the principal and interest on bonds issued by the suburban water system shall be expended only for such purpose.

4. Upon the effective date of the transfer of said suburban water system to the board of water supply, all personnel of the suburban water system shall become officers and employees of the department without loss of vacation allowance, service credits and other rights and privileges on the part of such personnel; subject, however, to change of status made pursuant to the civil service provisions of this charter.

**Section 14-105. Abolition of Other Agencies and Transfer of Functions and Personnel—**

1. The traffic safety commission, the division of traffic safety and the division of street lighting are hereby abolished and their powers, duties and functions are transferred to the department of traffic.

2. All personnel of the agencies by this section abolished, except the members of the traffic safety commission, shall become officers and employees of the department of traffic without loss of vacation allowance, service credits and other rights and privileges; subject, however, to change of status made pursuant to the civil service provisions of this charter.

The divisions of traffic safety and street lighting are abolished and the employees, records and equipment are transferred to the department of traffic. Op 59-52.

**Section 14-106. Transfer of Records and Property—**All records, property and equipment whatsoever of any office, division, department, board or commission, the functions of which are assigned to any other agency by this charter, shall be transferred and delivered to the agency to which such functions are so assigned. If part of the functions of any office, division, department, board or commission is by this charter assigned to another agency, all records, property and equipment relating thereto shall be transferred and delivered to the agency to which such functions are so assigned.

**Section 14-107. Status of Present Employees—**No loss of vacation allow-

ance, service credits or other rights and privileges on the part of any officer or employee in the civil service shall be caused by the adoption of this charter, but nothing contained herein shall be construed to prevent future changes in status pursuant to the civil service provisions of this charter.

In any reorganization under the charter, civil service employees will not lose pay. Op 59-50. District court personnel are not affected by the adoption of the charter. Op 59-55, Op 59-56. A civil service employee who accepts the position of chauffeur to the mayor which is exempt from civil service, may not retain his civil service status. Op 59-162. The rights and privileges granted by the "grandfather clause" in §3-51, RLH 1955, are safeguarded by §14-107 of the charter. Op 59-180.

**Section 14-108. Department Heads Continued in Office**—Notwithstanding any provision to the contrary, all department heads who have been appointed by the mayor, holding office on the effective date of this charter, shall continue in office without reappointment until their terms of office expire or until they are removed from office pursuant to the provisions of this charter.

The personnel director of civil service must be reappointed by the mayor. Op 59-50.

**Section 14-109. Ordinances Continue in Effect**—All ordinances, resolutions, rules and regulations in force at the time this charter takes effect, and not in conflict or inconsistent with this charter, are hereby continued in force until repealed, amended or superseded by proper authority.

Civil service regulations are continued in effect. Op 59-50. The duties of the safety program administrator are not affected. Op 59-54. The duties of the rent control commission are not affected. Op 59-57. The Oahu civil defense agency is not affected. Op 59-59. The duties of the librarian are not affected. Op 59-64. The duties of the poundmaster are not materially affected. Op 59-72.

**Section 14-110. Inconsistent Provisions of Rules, Ordinances and Laws**—The provisions of all rules, regulations, resolutions, ordinances and laws, which are inconsistent with this charter shall be superseded by the provisions of this charter at its effective date, except that ordinances which are inconsistent with those provisions of this charter that require action by the council to make them effective shall remain in full force until such action has been taken.

*Superseded:*

Chap. 3, RLH 1955, (civil service) by Chap. 6, Art. V of charter, Op 59-50; Act 147, SLH 1959, amending §149-184, RLH 1955, (amendment of master plan), by §5-512 of charter, Op 59-82; all inconsistent zoning ordinances and subdivision regulations are superseded, Op 59-85; §149-86(33a), RLH 1955, as amended by Act 71, SLH 1957 (powers of board of supervisors to lease realty), by §5-403(k) of charter, Op 59-111; §3-2, RLH 1955 (attorney general to advise civil service commission), by §5-203 of charter, Op 59-133; Part V, Chap. 149, RLH 1955 (city planning commission), by Chap. 5, Art. V of charter, Op 59-146; Act 43, SLH 1959 (inspection of public records), by §12-110 of charter, Op 59-164; Act 42, SLH 1959, amending §149-121, RLH 1955 (budget procedures), by Chap. 1 and 2 of Art. IX of charter, Op 59-184; Act 86, SLH 1959, amending §149-181, RLH 1955 (city planning commission), by §5-504 of charter, Op 59-186; Act 154, SLH 1959, amending §3-21, RLH 1955 (promotions), by Chap. 6, Art. V of charter, Op 59-187; Act 187, SLH 1959, amending §149-197, RLH 1955 (zoning), by §5-514 and §5-515 of charter, Op 59-203; Act 106, SLH 1959, amending §151-14, RLH 1955 (disbursement of parks board funds), by §12-104 of charter, Op 59-209; Act 50, SLH 1959, amending §149-183, RLH 1955 (master plan) by §5-512 of charter, Op 60-55; Act 112, SLH 1959, amending §149-131 (bureau of purchases and supplies) by §9-401 of charter, Op 60-58.

**Sec. 14-111**

*Not inconsistent and therefore still in effect:*

§141-1 and §149-86(34), RLH 1955, (sale of city realty), Op 59-111; §142-1, RLH 1955, (acceptance of streets), Op 59-128; Act 160, SLH 1959 amending §5-39, RLH 1955 (sick leave), Op 59-131; §11-99 and §149-33 (form of ballots), Op 59-141; Act 166, SLH 1959 (sick leave), Op 59-185; Act 156, SLH 1959, amending §4-4, RLH 1955 (employees' compensation plan), Op 59-204; Act 72, SLH 1959 (regulation of traffic on private streets), Op 59-205; Act 245, SLH 1959 (bidding for concessions), Op 59-207; §149-86(27), RLH 1955 (power of council to fix fees and charges for official services), Op 60-42; Act 176, SLH 1959, amending §149-86, RLH 1955 (sale of realty), Op 60-52; Act 57, SLH 1959, amending §153-2, RLH 1955 (construction of sanitary sewerage systems), Op 60-53; Act 94, SLH 1959, amending §149-86, RLH 1955 (general powers of the council), Op 60-54.

**Section 14-111. Pending Proceedings**—All petitions, hearings and other proceedings pending before any office, department, board or commission abolished by this charter, and all legal proceedings and investigations begun by such office, department, board or commission and not completed at the effective date of this charter, shall continue and remain in full force and effect and shall be completed before or by the office, department, board or commission which succeeds to the powers and functions of such office, department, board or commission.

Action on a zoning resolution initiated by the city planning commission prior to July 1, 1959 may be completed by the council after such date. Op 59-85.

**Section 14-112. Lawful Obligations of the City**—All lawful obligations of the city existing on the effective date of this charter and all fines, taxes, penalties, forfeitures, obligations and rights, due, owing or accruing to the city, and all writs, prosecutions, actions and proceedings by or against the city shall remain unaffected by the adoption of this charter.

The obligations of the former city planning commission are continued. Op 59-146.

**Section 14-113. Master Plan Continued**—The existing master plan of the city shall be continued as the general plan of the city, subject to modification under the provisions of this charter.

The master plan is continued. Op 59-85.

Note: Act 220, SLH 1959, relates to the Honolulu civic center.

**Section 14-114. Existing City and County Seal**—Until a new city seal shall have been adopted by the council the existing city and county seal shall be and remain the official seal of the city.

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