

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 seven members. They shall be persons who are in sympathy with and who believe in the principles of sound city planning. The managing director and the budget director of the city shall be members ex officio of the commission. Five other members shall be appointed by the mayor with the approval of the council for staggered terms of five years, and they shall serve 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, one for a term of three years, one for a term of four years and one for a term of five 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 commission shall annually select an appointed member as chairman. The affirmative vote of the majority of the membership shall be necessary to take any action.

The members of the planning commission are to be appointed by the mayor subject to approval of the council. Op 59-85. Adoption of the charter has no effect upon the planning grant contract executed by the pre-charter city planning commission on behalf of the city, with the housing and home finance agency. Op 59-146. Act 86, SLH 1959, amending §149-181, RLH 1955, relating to the organization of the planning commission is inconsistent and superseded. Op 59-186. Act 94, SLH 1959, amending §149-86, RLH 1955, relating to general powers of the council is not inconsistent. Op 60-54.

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.

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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: