

## Chapter 3

### ADDITIONAL BOARDS, COMMISSIONS AND COMMITTEES

#### Articles:

1. **Temporary Vacancies on Boards, Commissions and Committees**
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3. **Oahu Committee on Children and Youth**
4. **Poundmasters**
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#### Article 1. Temporary Vacancies on Boards, Commissions and Committees

#### Sections:

- 3-1.1 **Purpose.**
- 3-1.2 **Filling of temporary vacancies.**
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- 3-1.5 **Temporary appointments to attain quorum for contested case hearings.**
- 3-1.6 **Inapplicability.**

#### Sec. 3-1.1 Purpose.

This article is enacted pursuant to the Revised Charter of Honolulu, Section 13-103 (e), which provides that temporary vacancies on boards, commissions and committees shall be filled by the mayor as provided by ordinance. (Sec. 3-1.1, R.O. 1978 (1983 Ed.))

#### Sec. 3-1.2 Filling of temporary vacancies.

- (a) The mayor is authorized to fill subject to council approval temporary vacancies on boards, commissions or committees for which the mayor has been initially authorized by charter, law or ordinance to make an original appointment on boards, commissions or committees when a regularly appointed member of a board, commission or committee is ill, incapacitated, out of state or when such office becomes temporarily vacant for any other reason.
- (b) Whenever the mayor fills a temporary vacancy on boards, commissions or committees for less than 120 calendar days, no confirmation by council is necessary.
- (c) The mayor's written request for approval to fill a temporary vacancy of less than 120 calendar days shall include effective date of appointment, effective date of termination and reasons for appointment.
- (d) No Reappointment Permitted. The mayor shall not reappoint the same temporary appointee who has been appointed to fill a temporary vacancy on boards, commissions or committees for less than 120 calendar days on the same board, commission or committee upon the expiration of the initial 120 calendar days.
- (e) This section shall not apply to temporary appointments made pursuant to Section 3-1.5.  
(Sec. 3-1.2, R.O. 1978 (1983 Ed.); Am. Ord. 08-6)

#### Sec. 3-1.3 When confirmation necessary by council.

- (a) Filling of Temporary Vacancies in Excess of 120 Calendar Days. The mayor is authorized to fill temporary vacancies on boards, commissions or committees for which the mayor has been initially authorized by charter, law or ordinance to make an original appointment on boards, commissions or committees when a regularly appointed member of a board, commission or committee is ill, incapacitated, out of state or when such office becomes temporarily vacant for any other reason in excess of 120 calendar days; provided, such temporary appointee shall be subject to confirmation by the council as provided in Revised Charter of Honolulu Section 3-107.9 (public hearing).
- (b) No Reappointment. The mayor shall not reappoint the same temporary appointee who has been appointed to fill a temporary vacancy on boards, commissions or committees in excess of 120 calendar days on the same boards, commissions or committees upon the expiration of the initial temporary appointment.
- (c) Date of Termination. In any message from the mayor stating that the temporary vacancy is to be filled in excess of 120 calendar days, the mayor shall state the date of termination of such appointment.
- (d) No Confirmation of Council Necessary--When. When the mayor fills a temporary vacancy on boards, commissions or committees pursuant to the provisions of this section, no confirmation by the council is necessary where the charter does not require confirmation by the council of original appointees of the mayor on such boards, commissions or committees.  
(Sec. 3-1.3, R.O. 1978 (1983 Ed.))

#### Sec. 3-1.4 Termination of appointment.

All appointments, with the exception of the temporary appointments made under Section 3-1.5, shall terminate on the date noted on the mayor's letter of appointment. (Sec. 3-1.4, R.O. 1978 (1983 Ed.); Am. Ord. 08-6)

**Sec. 3-1.5 Temporary appointments to attain quorum for contested case hearings.**

- (a) When a board lacks a quorum to adjudicate a specific contested case due to the recusal or disqualification of one or more regularly appointed members, the mayor may make temporary appointments to the board. For the purposes of this section, "board" means any board, commission or committee that has the power to conduct a contested case as defined in HRS Chapter 91.
- (b) The number of temporary appointments the mayor may make to the board shall not exceed the minimum number of members necessary to constitute a quorum to adjudicate the specific contested case.
- (c) Any temporary appointee appointed pursuant to this section shall substitute for and have the qualifications, experience and training as required of the member who has been disqualified or recused from the contested case proceeding.
- (d) The appointment of a temporary appointee under this section shall be limited to the duration of the specific contested case proceeding and shall terminate upon the adoption of the final decision and order in the contested case by the board.
- (e) Temporary appointments made pursuant to this section shall not be subject to confirmation by the council.
- (f) The mayor shall give written notice to the council when temporary appointments are made pursuant to this section. Such notice shall identify the contested case, the effective date of appointment, and reasons for appointment.

(Added by Ord. 08-6)

**Sec. 3-1.6 Inapplicability.**

(a) This article shall not apply to temporary appointments on boards, commissions or committees for which the mayor is not required by law, charter, ordinance or rules to have either the council's approval or confirmation.

(b) This article also shall not apply to the transportation commission established under Revised Charter Section 6-1704. (Sec. 3-1.5, R.O. 1978 (1983 Ed.); Am. Ord. 97-02, 08-6)

**Article 2. Commission on Culture and the Arts**

**Sections:**

- 3-2.1 Definitions.**
- 3-2.2 Creation.**
- 3-2.3 Rules--Meetings.**
- 3-2.4 Objectives, powers, duties and functions.**
- 3-2.5 Compensation.**
- 3-2.6 Administrative services.**
- 3-2.7 Art in city buildings.**
- 3-2.8 Art inspection, inventory and maintenance.**

**Sec. 3 2.1 Definitions.**

The following terms whenever used in this article shall have the following respective meanings:

"Arts" means and includes music, dance, painting, drawing, sculpture, architecture, drama, poetry, prose, crafts, industrial design, interior design, fashion design, photography, television, motion picture art and all other creative activity of imagination and beauty.

"Commission" means the commission on culture and the arts established pursuant to Section 3-2.2.

"Culture" means and includes the arts, customs, traditions and mores of all of the various ethnic groups of Hawaii. (Sec. 3-3.1, R.O. 1978 (1983 Ed.); Am. Ord. 95-68)

**Sec. 3-2.2 Creation.**

(a) There shall be a commission on culture and the arts consisting of 11 members, excluding ex officio members, who shall be appointed by the mayor with the approval of the council. There shall be one member for each of the below listed categories, except for the category drawing, painting, printmaking and sculpture which shall have two members:

- (1) Design: graphic, industrial, visual;
- (2) Urban design: architecture, landscape architecture and interior design;
- (3) Drawing, painting, printmaking and sculpture;
- (4) Crafts: ceramics, weaving, woodworking, etc.;
- (5) Music: contemporary and classical;
- (6) Theater arts: drama;
- (7) Dance;
- (8) Multi media: cinematography, photography, television;
- (9) Literature: prose, poetry;
- (10) At large.

(b) Each member of the commission shall be appropriately qualified to fulfill the roles of the commission within each member's respective category. Of the members originally appointed two shall serve for a term of one year, three for a term of two years, two for a term of three years, two for a term of four years and two for a term of five years. Thereafter, each member shall be appointed for a term expiring five years from the date of expiration of the term of the member's predecessor, or in the case of a vacancy for the remainder of the unexpired term. Each member shall serve until the member's successor has been appointed and qualified. The commission shall annually select a chair and a vice chair from its members, whose duties shall be as set forth in this article and in the rules adopted by the commission.

(Sec. 3-3.2, R.O. 1978 (1983 Ed.))

### **Sec. 3-2.3 Rules--Meetings.**

The commission shall adopt the necessary procedural rules which will enable it to conduct its business and to carry out its powers, duties and functions. Meetings of the commission shall be held at the call of the chair but at least once each calendar quarter. Six members shall constitute a quorum and the affirmative vote of a majority of members present at such meeting, a quorum being present, shall be necessary to take any action. (Sec. 3-3.3, R.O. 1978 (1983 Ed.))

### **Sec. 3-2.4 Objectives, powers, duties and functions.**

The objectives of the commission shall be to assist the city in attaining national preeminence in culture and the arts, to assist the city in the preservation of the artistic and cultural heritages of all its people, to promote a community environment which provides equal and abundant opportunity for exposure to culture and the arts in all its forms and to encourage and provide equal opportunity for the development of cultural and artistic talents of the people of Honolulu. In the furtherance of these objectives, the commission shall have the following powers, duties and functions:

- (a) The commission shall decide on and purchase the specific works of art to be acquired under Section 3-2.7. In doing so, the commission shall be responsible for the evaluation, selection, commissioning of artists, reviewing of design, reviewing implementation and works in progress, purchasing of works of art not specifically commissioned by the commission, and placement of art in city buildings and facilities. In performing this function, the commission shall consult with the affected agencies and departments.  
In addition, the commission shall determine the acceptability of works of art offered as gifts to the city. If monetary gifts are made to the city for the acquisition of works of art pursuant to Revised Charter Section 13-113, the commission shall be responsible for the acquisition of such works of art.
- (b) In the area of community aesthetics the commission shall review the architectural, landscape and interior design of all planned and existing city buildings, grounds and facilities and make recommendations to the executive and legislative branches of the city with respect to the establishment of aesthetic standards.
- (c) In the development of the city's program for the preservation, advancement and dissemination of culture and the arts to its citizens, the commission shall make recommendations and submit proposals to the various branches, departments, agencies and offices of the city with respect to the formulation of new arts and culture programs and the expansion of existing programs.

(Sec. 3-3.4, R.O. 1978 (1983 Ed.); Am. Ord. 95-68)

### **Sec. 3-2.5 Compensation.**

The members of the commission shall receive no compensation but shall be entitled to reimbursement of expenses incurred by them in the performance of their duties. (Sec. 3-3.5, R.O. 1978 (1983 Ed.))

### **Sec. 3-2.6 Administrative services.**

- (a) The commission shall be attached to the office of the mayor for administrative purposes and the mayor shall cause employees of the mayor's office to furnish such services as may be needed by the commission. The mayor shall designate an employee of the city to serve as coordinator and provide liaison between the commission and the various agencies, departments and offices of the city.
- (b) In addition to the coordinator, the following officials, or their designated representatives, shall attend and participate ex officio in all meetings of the commission:
  - (1) The director of the department of community and social resources;
  - (2) The director of the department of parks and recreation;
  - (3) The building superintendent;
  - (4) The auditoriums director; and
  - (5) The Royal Hawaiian bandmaster.

The ex officio representatives shall have no vote in proposed actions of the commission.  
Sec. 3-3.6, R.O. 1978 (1983 Ed.); Am. Ord. 96-58, 97-17)

### **Sec. 3-2.7 Art in city buildings.**

- (a) An amount equal to not less than one percent of the construction phase appropriation for the original construction of any city building shall be appropriated to the commission for the acquisition of works of art. The monies shall be used solely for the following purposes:
  - (1) Costs related to the acquisition of works of art, including the commissioning of artists and the purchase of art work;
  - (2) Site modifications, display, and interpretive work necessary for the exhibition of works of art;
  - (3) Upkeep services, including maintenance, repair, and restoration of works of art; and
  - (4) Storing and transporting works of art.
- (b) Notwithstanding the foregoing limitation on the amount of the appropriation for acquisition of works of art, an amount in excess of one percent may be set aside upon recommendation of the commission and with the concurrence of the council. If the amount shall not be required in total or in part for any project, the unrequired amounts may be accumulated and expended for the purposes specified in subsection (a).
- (c)
  - (1) The commission shall consider, unless impracticable, placing the works of art acquired pursuant to this section in or at the following city buildings listed in their order of priority: [\*Editor's Note: Ord. 96-52 shall not apply to nonmoveable works of art that are already on display in or at a city building, or have been commissioned by the city on or after the effective date of the ordinance (July 31, 1996), and are intended to be exhibited or displayed at a particular location. See Sec. 4 of Ord. 96-52.]
    - (A) In or at the city building to which the one percent funding for art requirement applies, provided that the building is frequented by the public;

- (B) If the city building described in paragraph (A) is not a building frequented by the public, in or at a city building frequented by the public that is within close proximity to the building described in paragraph (A);
  - (C) If neither the city building described in paragraph (A), nor any city building in close proximity thereto, is frequented by the public, in or at any other city buildings frequented by the public; and
  - (D) If it is impracticable to place works of art acquired in accordance with subsection (a) in any of the city buildings described in paragraphs (A), (B) or (C), in or at other city buildings.
- (2) For the purposes of this subsection:
- (A) A work of art shall be deemed to be placed "in or at a city building" if it is placed in or outside of, as an integral part of, or attached to the building;
  - (B) The placement of works of art at a particular building shall be deemed "impracticable" if the art would be exposed to damage, abnormal wear or threat of vandalism or theft, if there is no suitable surface at the building for the display of art, if there already is an adequate number of works of art displayed at the building, or if for other reasons, the commission finds that the placement of the art at the particular building would be inadvisable;
  - (C) "City buildings that are frequented by the public" include:
    - (i) Publicly owned buildings, any part of which is routinely visited by the public; and
    - (ii) Those portions of privately owned buildings that are leased to city agencies and routinely visited by the public.
- (d) Monies which the commission was unable to expend or encumber in the immediately preceding calendar year for the acquisition of works of art prior to their lapsing pursuant to Revised Charter Section 9-106.3 may be reappropriated in the capital budget effective July 1 of the fiscal year next following the lapsing of such funds.
- (Sec. 3-3.7, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ords. 95-68, 96-52, 14-24)

**Sec. 3-2.8 Art inspection, inventory and maintenance.**

- (a) In order to preserve and account for the city's movable and permanent works of art, the mayor's designated coordinator and liaison to the commission, henceforth referred to as the arts coordinator, shall:
- (1) Annually inspect and conduct an inventory of such works of art;
  - (2) Develop an annual maintenance, preservation and restoration program and budget for the city's movable and permanent works of art; and
  - (3) File with the city clerk on a biennial basis a report on the art inspections and inventories conducted since the immediately prior report.
- The arts coordinator may engage consultants as is necessary to assist in the performance of these duties.
- (b) On or before March 1 of every year, the arts coordinator shall submit to the mayor and the council:
- (1) An annual maintenance, preservation and restoration program for the city's art inventory, including a description of the program, its needs and accomplishments; and
  - (2) The amount of funds budgeted for the upcoming fiscal year for the annual inspection and inventory, and for the maintenance, preservation and restoration program.
- (c) To accomplish the duties provided in this section, the arts coordinator may request funds through the annual operating budget.
- (d) For the purposes of this section, "movable and permanent works of art" means a work of art, as defined in Section 3 2.1, purchased or otherwise acquired by the city or made an integral part of a city building.
- (Added by Ord. 90-82; Am. Ord. 14-24)

**Article 3. Oahu Committee on Children and Youth\***

[\*Editor's Note: In general, HRS Chap. 581.]

**Sections:**

**3-3.1 Organization.**

**Sec. 3-3.1 Organization.**

There shall be an Oahu committee on children and youth as provided by law. (Sec. 3-4.1, R.O. 1978 (1983 Ed.))

**Article 4. Poundmasters\*\***

[\*\*Editor's Note: Authority, HRS § 70-76. Brands, Part II, HRS Chap. 142.]

**Sections:**

- 3-4.1 Appointment.**
- 3-4.2 Acting poundmaster.**
- 3-4.3 Duties Compensation.**
- 3-4.4 Application for impounding.**
- 3-4.5 Estrays.**
- 3-4.6 Notice and method of pound sales.**
- 3-4.7 Proceeds of sales.**
- 3-4.8 Administrative services.**

**Sec. 3-4.1 Appointment.**

The mayor, with the approval of the council, shall appoint suitable persons as poundmasters for the city whose term of office shall be coterminous with the term of the mayor but who shall continue in office until their successors are duly qualified and appointed, and whose compensation shall be as hereinafter provided. (Sec. 3-5.1, R.O. 1978 (1983 Ed.))

**Sec. 3-4.2 Acting poundmaster.**

The mayor may appoint an acting poundmaster to serve during the period in which any regular poundmaster is temporarily absent from the city, ill or otherwise unable temporarily to perform the poundmaster's duties as poundmaster. Such acting poundmaster shall have the same powers and duties as the regular poundmaster. (Sec. 3-5.2, R.O. 1978 (1983 Ed.))

**Sec. 3-4.3 Duties Compensation.**

- (a) Each poundmaster shall be responsible for the safekeeping and proper care of any estray committed to the poundmaster's charge.
- (b) The poundmaster shall give the estrays a sufficient quantity of food and water, and any poundmaster who shall abuse or neglect any estray in the poundmaster's charge, shall forfeit the pound fees to which the poundmaster would otherwise have been entitled and shall also be liable to the owner thereof for damages.
- (c) Each poundmaster shall receive for the poundmaster's services from the owner of such estray the following fees:
  - (1) Impounding of Estrays.
    - (A) Animals Trespassing on Private Property. The owners of such animals shall pay the poundmaster the fees prescribed in HRS Section 142 70.
    - (B) Animals Trespassing on Public Highways or Property. The owners of such animals shall pay the poundmaster the fees prescribed in HRS Section 142 66.
    - (C) Pound Fees.
      - (i) Bulls, stallions and boars of breeding age, five dollars for each animal for each 24 hour period;
      - (ii) All other estrays, three dollars for each animal for each 24 hour period.
  - (2) Fees for Transporting Animals to Pound or Back to Owner or Both.

Type of Animal	Use of Trailer	Use of Tow Vehicle	Helper's Fees
Bulls, stallions and boars of breeding age	\$5.00	\$.50 per mile	\$3.00 per hour
All other strays	2.50	.50 per mile	\$2.00 per hour

- (3) Fees for Transporting Animals Other than to Pound or Back to Owner. The poundmaster is authorized to negotiate with the owner of the animal for the fees to transport and to keep animals other than as prescribed in paragraphs (A) and (B) of this section.

(Sec. 3-5.3, R.O. 1978 (1983 Ed.))

**Sec. 3-4.4 Application for impounding.\***

[\*Editor's Note: Damages for trespass, HRS § § 142-62, 142-63, 142-64, 142-66, 142-69. Recovery by owner before impounding.]

No poundmaster shall receive estrays which have trespassed on private property until the person wishing to impound the same shall have signed such person's name to a statement setting forth the number and species of estrays, locality trespassed upon, name of owner or owners of such estrays, if known, together with the date on which they were taken and the amount of damages claimed. (Sec. 3-5.4, R.O. 1978 (1983 Ed.))

**Sec. 3-4.5 Estrays.**

If any horse, mule, ass, hog, sheep, goat or cattle shall be found at large, and not upon the land of the owner or person having charge of such animal, or if found doing damage to the property of private individuals, or of the government, such animal shall be regarded as estray within the meaning of this article. (Sec. 3-5.5, R.O. 1978 (1983 Ed.))

**Sec. 3-4.6 Notice and method of pound sales.\*\***

[\*\*Editor's Note: Damages claimed for trespass, HRS § § 142-62, 142-63, 142-64, 142-66, 142-69. Expenses for driving and conveying, HRS § 142-70. Owner's relief, HRS § 142-72. Jurisdiction of district magistrate, appeal HRS § 142-73.]

It shall be the duty of every poundmaster to publish a notice in a newspaper of general circulation in the city as soon as possible after the expiration of 24 hours from the time of impounding of any estrays giving a full description of the same together with an announcement of the day on which it will be sold at public auction if unclaimed, for which notice the poundmaster shall receive one dollar for each estray included in the notice plus the cost of publication which shall be assessed pro rata according to the number of animals advertised therein. The poundmaster shall also forthwith upon the impounding of any animal, notify in writing any person known to the poundmaster to be the owner of such animal. For each such notice the poundmaster shall receive 25 cents. If the owner does not claim such estray and pay the poundmaster's fees, together with the charges for advertising and notifying and the damages claimed for trespass and expense of driving or conveying, within five days from the date of impounding or at any time before sale, the poundmaster shall sell such estray at public auction to the highest bidder at two o'clock on the first Saturday afternoon ensuing after the expiration of the five days aforesaid. (Sec. 3-5.6, R.O. 1978 (1983 Ed.))

**Sec. 3-4.7 Proceeds of sales.**

The proceeds of such sale after deducting the poundmaster's fees, expenses of advertisement, expenses of conveying or driving and damages shall be remitted by the poundmaster to the director of finance and shall be deposited in the general fund. In case the owner of the estray shall substantiate the owner's claim thereto within one year, the council may make provision for reimbursement to the owner of the amount so deposited. (Sec. 3-5.7, R.O. 1978 (1983 Ed.))

**Sec. 3-4.8 Administrative services.**

The poundmasters shall be attached to the department of parks and recreation for administrative, fiscal and budgeting purposes and the director of parks and recreation shall cause employees of the director's department to furnish such administrative, fiscal and budgeting services as may be needed by the poundmasters from time to time. (Sec. 3-5.8, R.O. 1978 (1983 Ed.))

**Article 5. Animal Control**

**Sections:**

- 3-5.1 Definitions.**
- 3-5.2 Authorization to issue summons.**
- 3-5.3 Expenses incurred--Appropriations.**
- 3-5.4 Annual report required.**
- 3-5.5 Authorization to impound cats.**

**Sec. 3-5.1 Definitions.**

"Animal control contractor" means the duly incorporated humane society or organization formed for the prevention of cruelty to animals which is contracted by the city to perform animal control services. (Added by Ord. 02-54)

**Sec. 3-5.2 Authorization to issue summons.**

Officers of the animal control contractor, having the duty of seizing and impounding stray dogs pursuant to the provisions of Article 4 of Chapter 7, who are deputized as special officers by the chief of police for the purpose of enforcing the provisions of the article, are authorized and empowered to issue summonses according to the procedures set forth in Article 4, Chapter 7, to violators of the provisions of Article 4 and Article 6 of Chapter 7. (Sec. 3-6.2, R.O. 1978 (1983 Ed.); Am. Ord. 95-21, 02-54)

**Sec. 3-5.3 Expenses incurred—Appropriations.**

All expenses of seizing, impounding and disposing of stray dogs shall be borne by the animal control contractor; provided, however, that the council may from time to time make such appropriations to assist the contractor, as in its discretion and judgment shall be deemed necessary. (Sec. 3-6.3, R.O. 1978 (1983 Ed.); Am. Ord. 02-54)

**Sec. 3-5.4 Annual report required.**

The animal control contractor shall render a full report of its activities and operations relating to the impounding of stray dogs to the mayor and council within one month after the end of each fiscal year. (Sec. 3-6.4, R.O. 1978 (1983 Ed.); Am. Ord. 02-54)

**Sec. 3-5.5 Authorization to impound cats.**

The animal control contractor is authorized and empowered to impound any cat released to the animal control contractor and to dispose of the same pursuant to the provisions of Chapter 7, Article 6. (Added by Ord. 95-21; Am. Ord. 02-54)

**Article 6. Ethics Commission\***

[\*Editor's Note: See also Chap. 3, Art. 8, ROH 1990.]

**Sections:**

- 3-6.1 Membership, term and appointment.**
- 3-6.2 Rules--Meetings.**
- 3-6.3 Powers, duties and functions.**
- (3-6.4 Commission staff. Repealed by Ord. 17-47.)**
- 3-6.4 Reserved.**
- 3-6.5 Requirements applicable to the rendering of advisory opinions.**
- 3-6.6 Requests for advice.**
- 3-6.7 Complaints.**
- 3-6.8 Reserved.**
- (3-6.8 Applicability. – Repealed by Ord. 12-1)**
- 3-6.9 Prohibiting political management or activity or candidacy to an elective political office.**
- 3-6.10 Training of officers and employees on standards of conduct.**
- 3-6.11 Definitions.**
- 3-6.12 Confidentiality of commission records.**

**Sec. 3-6.1 Membership, term and appointment.**

The number, term, and appointment of members of the ethics commission shall be subject to Section 11-107 of the charter. (Sec. 3-2.1, R.O. 1978 (1983 Ed.); Am. Ord. 01-51)

**Sec. 3-6.2 Rules Meetings.**

Meetings of the commission shall be held at the call of the chair and the affirmative vote of a majority of the entire membership shall be necessary to take any action. (Sec. 3-2.2, R.O. 1978 (1983 Ed.))

**Sec. 3-6.3 Powers, duties and functions.**

- (a) The commission shall render advisory opinions at any time at the request of an officer or employee of the city involving the possible conflict of interest or unethical conduct on the part of or the solicitation, acceptance, or receipt of a gift by such officer or employee.
- (b) The commission shall also render advisory opinions regarding complaints.
- (c) The commission shall have jurisdiction for purposes of investigation and taking appropriate action over a complaint or request for an advisory opinion alleging a violation of the standards of conduct established in Article XI of the revised charter or of Article 8 of this chapter by a current or former officer or employee that has been submitted to the ethics commission within six years after the alleged violation occurred. Any investigation commenced by the commission on its own initiative into an alleged violation of Article XI of the revised charter or of Article 8 of this chapter by a current or former officer or employee shall be commenced within six years after the alleged violation occurred.
- (d) The commission shall recommend to the appointing authority or the council, in the case of a councilmember, appropriate disciplinary action against officers and employees found to have violated the standards of conduct established in Article XI of the revised charter or Article 8 of this chapter.
- (e) The commission may impose civil fines as set forth in Section 3-8.5.
- (f) The commission may submit to the mayor and council recommendations and reports which it deems advisable and which pertain to the standards of conduct contained in Article XI of the revised charter, to the administration of said Article XI or to any other matter relating to the fostering and maintenance of ethical conduct.
- (g) The commission may initiate or make investigations and hold hearings.
- (h) The commission may subpoena witnesses, administer oaths and take testimony relating to matters before the commission and issue subpoenas for the production for examination of any books, papers or other documents relative to any matter under investigation or in question before the commission. The commission may exercise its subpoena power upon the signature of a subpoena by the chair of the commission, by the vice chair, or by a vote of the majority of the members of the commission.
- (i) The commission may, from time to time adopt, amend and repeal such rules and regulations, not inconsistent with the provisions herein and of Article 8 of this chapter, as in the judgment of the commission seem appropriate for the carrying out of the provisions herein and of Article 8 of this chapter and for the efficient administration thereof, including every matter or thing required to be done or which may be done with the approval or consent or by order or under the direction or supervision of or as prescribed by the commission. The rules and regulations, when approved, promulgated and filed as provided in HRS Chapter 91 shall have the force and effect of law.
- (j) The commission may disclose the name of any officer or employee who has been determined by the commission, following investigation and a hearing or opportunity for a hearing, to have violated any of the provisions of Article 8 of this chapter or of Article XI of the revised charter in accordance with HRS Chapter 92F.
- (k) The commission may submit information or records to another agency, an agency of the State of Hawaii, an agency of another state, or to an agency of the federal government, or a foreign law enforcement agency or authority as permitted under HRS Chapter 92F.

(Sec. 3-2.3, R.O. 1978 (1983 Ed.); Am. Ord. 92-17, 93-113, 94-49, 02-15, 07-43, 12-1)

**(Sec. 3-6.4 Commission staff. Repealed by Ord. 17-47)**

**Sec. 3-6.4 Reserved.**

**Sec. 3-6.5 Requirements applicable to the rendering of advisory opinions.**

- (a) In addition to the provisions of this section, requests for advisory opinions that are complaints shall also meet the requirements specified in Section 3-6.7.
- (b) Except in the case of a written request by the officer or employee concerned, the commission may for good cause refuse to entertain a request for an advisory opinion. Without limiting the generality of the foregoing, the commission may refuse to entertain a request where: (1) the request is speculative or purely hypothetical and does not involve an actual situation or (2) the request is frivolous.
- (c) The commission shall acknowledge the receipt of the request in writing to the person submitting the request. If the request involves an employee or officer and the request is made by a person other than such employee or officer, a copy of the request shall be sent to the employee or officer so involved with the name of the person making the request deleted so that such person's name will not be disclosed.
- (d) Within 30 days after a request for an opinion, or within 30 days after a hearing on any request shall have been concluded, whichever is later, the commission shall render its opinion in writing. All formal advisory opinions rendered by the commission shall be in writing and shall be published in such form and with such deletions as may be necessary to prevent the disclosure of the identity of the persons involved unless disclosure is in accordance with applicable law.
- (e) After an opinion has been rendered, the commission shall notify the appointing authority of the officer or employee involved or the council in the case of elected officials, of its decision and shall recommend appropriate disciplinary action against officers and employees found to have violated standards of conduct established by the revised charter or by ordinance. The appointing authority or the council shall take whatever action is deemed necessary, and report the action taken and the reasons for the action to the commission within 15 days after receiving the decision and recommendation of the commission.

(Sec. 3-2.5, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-58, 12-1)

**Sec. 3-6.6 Requests for advice.**

- (a) Any officer or employee may make a request for advice from the commission relating to any situation involving such officer or employee which may give rise to the possibility of a conflict of interest under Revised Charter, Article XI. Any officer or employee also may make a request for advice from the commission on a situation which may give rise to the possibility of unethical conduct under this article. Any officer or employee also may request advice from the commission relating to the solicitation, acceptance, or receipt of a gift.

- (b) The request for advice may be written or oral and shall set forth the pertinent facts, if known.  
(Sec. 3-2.6, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 93-113, 94-49, 02-15, 12-1)

**Sec. 3-6.7 Complaints.**

- (a) Any person may submit a written complaint to the commission, which shall be signed by the complainant. The complaint shall relate to an actual situation and shall set forth the pertinent facts if known, including the names of those involved and the nature of the alleged acts or omissions. The commission shall not consider any complaint that is not submitted in writing and signed by the complainant, except that it may consider one initiated by the commission.
- (b) The employee or officer whose conduct is the subject of the complaint shall have an opportunity to respond in writing within 15 days after receipt of a copy of the complaint. The response may include a request for a hearing before the commission.
- (c) Where no hearing is requested by the officer or employee whose conduct is the subject of the complaint, the commission shall render its opinion on the basis of the information available; provided, that the commission may request for additional information when deemed necessary.
- (d) The commission shall, upon receipt of a request for a hearing within the period above referred to by the officer or employee involved, set a time and place for the hearing for the purpose of determining the facts. The complainant and the employee or officer whose conduct is the subject of the complaint shall have the opportunity to appear at the hearing, alone or by counsel, and to present any and all evidence, including testimony and exhibits, which are relevant to the issue involved. No testimony shall be excluded, except for irrelevancy.
- (e) All meetings or hearings before the commission involving an alleged violation of the standard of conduct by any employee or officer shall be held in executive session, provided that a public hearing or meeting may be held where the officer or employee alleged to have violated the standards of conduct, consents thereto.

(Sec. 3-2.7, R.O. 1978 (1987 Supp. to 1983 Ed.), Am. Ord. 12-1)

**Sec. 3-6.8 Reserved. (Sec. 3-6.8 Applicability. – Repealed by Ord. 12-1)**

**Sec. 3-6.9 Prohibiting political management or activity or candidacy to an elective political office.**

- (a) Except for exercising the right to vote or making a campaign contribution to a candidate for elective public office, no member of the ethics commission shall support, advocate or aid in, or manage, the election or defeat of any candidate for public office.  
No member of the ethics commission shall be a candidate for any elective public office nor engage in campaigning for such office.
- (b) Any member of the ethics commission who violates the provisions of this section shall be removed by the mayor forthwith since such person serves at the pleasure of the mayor.

(Sec. 3-2.9, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 01-51)

**Sec. 3-6.10 Training of officers and employees on standards of conduct.**

- (a) Each officer or employee shall complete a training program on the standards of conduct established under Article XI of the charter and Article 8 of this chapter.  
For purposes of this section, “officer” includes a person who is an “officer” due to membership on a board or commission, including the board of water supply and the board of the Honolulu Authority for Rapid Transportation. The term does not include a member of an advisory committee established under the executive branch pursuant to Section 4-103 of the charter or under the council pursuant to council rule or resolution.  
The program shall provide training and information which gives the officer or employee knowledge of at least the following:
- (1) The various standards of conduct applicable to officers and employees and former officers or employees who appear before the officer's or employee's agency;
  - (2) Actions which officers or employees must or may take to avoid a violation of a standard of conduct;
  - (3) Actions which the officer or employee may take when ordered or requested by a superior officer or employee to violate a standard of conduct;
  - (4) Remedies which may be sought by the officer or employee when knowing or suspecting that another person has violated a standard of conduct; and
  - (5) Requirements concerning the filing of financial disclosures and conflict of interest disclosures by officers and employees.
- (b) The ethics commission shall formulate the training program and provide it to officers or employees according to the following timetable:
- (1) Officers or employees employed on the effective date of this ordinance, who have not previously received ethics training shall receive the training within two years of that date; and
  - (2) Officers or employees elected, appointed, or hired after the effective date of this ordinance shall receive ethics training within six months of the election, appointment, or hiring date of the officer or employee. The ethics commission, however, may exempt an officer or employee from the training program of this subdivision if the officer or employee previously completed the program while occupying a former position.
- (c) The ethics commission shall determine the time interval at which officers and employees shall receive retraining on the standards of conduct.
- (d) The ethics commission may request the department of human resources to assist in formulating, providing, and scheduling the training program. The department may provide the assistance if able and willing to do so.
- (e) An officer or employee who fails to timely obtain ethics training may be subject to discipline or penalty pursuant to Section 3-8.5.

(Added by Ord. 01-35; Am. Ord. 02-15, 12-25, 12-31)

**Sec. 3-6.11 Definitions.**

As used in this article:

“Advisory opinion” means a written or oral response by the commission or its staff to a request for advice or a complaint.

“Complaint” means a written statement of facts or allegations giving rise to a reasonable inference that a violation of the standards of conduct by an officer or an employee has occurred, which statement is either: (1) submitted to the ethics commission by a person other than the person whose conduct is in question; or (2) initiated by the commission, based on written or non-written information.

“Employee” means the same as defined in Revised Charter Section 13-101.3 and shall include employees of the board of water supply and the Honolulu Authority for Rapid Transportation.

“Formal advisory opinion” means a written opinion in response to a request for advice or a complaint approved by an affirmative vote of the majority of the entire membership of the commission.

“Officer” means the same as defined in Revised Charter Section 13-101.4 and shall include officers of the board of water supply and the Honolulu Authority for Rapid Transportation.

“Request for advice” means a written or oral request to the commission for an opinion whether the conduct of an officer or employee would be a violation of the standards of conduct.

“Standards of conduct” means the provisions regarding ethical conduct stated in Article XI of the Revised Charter and Article 8 of this chapter.

(Added by Ord. 12-1, 12-31)

**Sec. 3-6.12 Confidentiality of commission records.**

(a) All advisory opinions, files, records, reports, writings, documents, exhibits, electronic records and other information prepared or received by the commission or its staff or consultants relating to a request for advice or a complaint shall be held in confidence and no information as to the contents thereof shall be disclosed, unless such disclosure is:

- (1) The result of the information being presented to or received by the commission at a hearing or meeting that is open to the public;
- (2) Ordered by a court of competent jurisdiction;
- (3) Reasonably required by the commission, its staff or consultant to investigate or otherwise discharge its duties regarding the request for advice or the complaint, including but not limited to providing information to the appointing authority or council, in the case of a councilmember, in support of the commission's advisory opinion and recommended disciplinary action, unless otherwise protected by law. If disciplinary action is taken against an employee, the employee's exclusive representative shall also be entitled to the information, unless otherwise protected by law; or
- (4) Allowed or required by applicable law.

(b) Any commission member, commission staff member or consultant who discloses information related to a request for advice or complaint, unless disclosure is allowed pursuant to subsection (a), shall be subject to the applicable provisions of Section 11-106 of the Revised Charter and Section 3-8.5.

(c) The disclosures of conflicts of interests as provided in the Revised Charter shall be made matters of public record at any time that such a conflict becomes apparent.

(Added by Ord. No. 12-1)

**Article 7. Salary Commission**

**Sections:**

**3-7.1 Convening of commission.**

**3-7.2 Powers, duties and functions.**

**Sec. 3-7.1 Convening of commission.**

The commissioners shall be appointed and the commission shall convene its first meeting pursuant to Section 3-122 of the Revised Charter of the City and County of Honolulu, as amended. The commission may reconvene at any time, but not less than at intervals of two years. (Added by Ord. 88 42)

**Sec. 3-7.2 Powers, duties and functions.**

The commission shall perform all duties required by Section 3-122 of the Revised Charter of the City and County of Honolulu, as amended. The commission shall establish rules of procedure and adopt rules and regulations pursuant to law. (Added by Ord. 88-42)

**Article 8. Additional Standards of Conduct\***

[\*Editor's Note: See also Chap. 3, Art. 6, ROH 1990.]

**Sections:**

**3-8.1 Definitions.**

**3-8.2 Additional standards of conduct.**

**3-8.3 Restrictions relative to post employment.**

**3-8.4 Financial disclosures.**

**3-8.5 Violation Penalty.**

**3-8.6 Additional standards of conduct concerning campaign contributions and campaign assistance.**

**3-8.7 Gifts to mayor, prosecuting attorney, and appointed officer or employee--Prohibition under certain circumstances.**

**3-8.8 Gifts to councilmember--Prohibition under certain circumstances.**

### **3-8.9 Additional standards of conduct concerning campaign contributions and campaign assistance from lobbyists.**

#### **Sec. 3-8.1 Definitions.**

Unless the context of this article otherwise clearly requires, for purposes of this article the terms defined in this section shall have the respective meanings hereinafter set forth:

"Agency" means and includes (1) the City and County of Honolulu; (2) the council and its committees; (3) all departments, offices, boards, commissions, committees; (4) all independent commissions and other similar establishments of the city government; (5) the board of water supply; (6) the Honolulu Authority for Rapid Transportation; and (7) any other governmental unit of the city.

"Business" means and includes (1) a corporation; (2) a partnership; (3) a sole proprietorship; (4) institutions; (5) trusts; (6) foundations; or (7) any other individual or organization carrying on a business, whether or not operated for profit.

"City" means the City and County of Honolulu.

"Compensation" means (1) any money; (2) thing of value; and (3) economic benefit conferred on or received by any person in return for services rendered or to be rendered by such person or another.

"Controlling interest" means an interest which is sufficient in fact to control, whether the interest be greater or less than 50 percent.

"Financial interest" means an interest held by an individual, the individual's spouse or minor children which is: (1) an ownership interest in a business; (2) a creditor interest in an insolvent business; (3) an employment, or prospective employment for which negotiations have begun; (4) an ownership interest in real or personal property; (5) a loan or debtor interest; or (6) a directorship or officership in a business.

"Former employee" means any person who has served the city in a position involving the taking of official action, as hereinafter defined.

"Official act" or "official action" means a decision, recommendation, approval, disapproval or other action, including inaction, which involves the use of discretionary authority.

"Officers and employees" shall be given the meaning as prescribed in subsections 3 and 4 of Revised Charter Section 13-101 and shall include officers and employees of the board of water supply and the Honolulu Authority for Rapid Transportation; provided, that the term "officers and employees" shall also include officers and employees under a personal services contract with the executive branch of the city as prescribed in subsections (f) and (g) of Revised Charter Section 6-1103, or under equivalent contracts with the legislative branch of the city as prescribed in subsection (f) of Revised Charter Section 6-1104 and shall also include officers and employees under a personal services contract with the board of water supply and the Honolulu Authority for Rapid Transportation, but excluding independent contractors.

(Sec. 6-1.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 94-49, 12-31)

#### **Sec. 3-8.2 Additional standards of conduct.**

No officer or employee of the city, except as hereinafter provided, shall:

- (a) Participate, as an agent or representative of a city agency, in any official action directly affecting a business or matter in which (1) such person has a substantial financial interest; or (2) by or for which a firm of which such person is a member, an associate or an employee has been engaged as a legal counsel or advisor or consultant or representative in a matter directly related to such action; provided, that a councilmember is not precluded from voting on such matter before the council so long as a written disclosure has been made in the event there is a conflict of interest involving this subsection and relating to such matter.
- (b) Acquire financial interest in business enterprises which such person has reason to believe may be directly involved in official action to be taken by such person.
- (c) Appear in behalf of private interests before any agency other than a court of law, nor shall such person represent private interests in any action or proceeding against the interests of the city in any litigation to which the city is a party; provided, however, that a member of any board, commission or committee may appear in behalf of private interests before agencies other than the board, commission or committee on which such person serves; provided further, that no officer or employee shall be denied the right to appear before any agency to petition for redress of grievances caused by any official act or action affecting such person's personal rights, privileges or property, including real property. This prohibition shall not apply to any architect, landscape architect, surveyor or engineer registered as such under the provisions of HRS Chapter 464, who is a city employee or officer, with respect to the affixing by such registered professional of such person's registered stamp to any plans, specifications, drawings, etc., to be submitted to the city for permits for such person's principal residence or that of members of such person's immediate family; provided, that the stamp is accompanied by a signed statement that the work was prepared by the person stamping the document or under such person's supervision; and provided further, that the registered professional may not, in the capacity of a city employee or officer, review, approve or otherwise act upon the plans, specifications, drawings, etc., such person has stamped. For the purposes of this section, "immediate family" means the employee's or officer's spouse, siblings, children or parents; spouse's children or parents; or children's spouses.
- (d) Accept a retainer, compensation, or election campaign contribution that is contingent upon action by an agency.
- (e) Enter into any contract in behalf of the city with an officer or employee or with a business in which an officer or employee has a controlling or substantial financial interest, involving the furnishing of services, materials, supplies and equipment unless the contract is made after competitive bidding; provided, that this subsection shall not apply to personal contracts of employment with the executive branch of the city as prescribed in Revised Charter Section 6-1103(f) and (g) or equivalent contracts with the legislative branch of the city as prescribed in Revised Charter Section 6-1104(f).
- (f) Order any person to violate, or aid or abet any person in the violation of the provisions of Revised Charter Section 6-1112.2 relating to prohibition on political activities of persons in the civil service.

(Sec. 6-1.2, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-58, 02-11)

#### **Sec. 3-8.3 Restrictions relative to post employment.**

- (a) No former officer or employee of the city shall disclose any information which by law or practice is not available to the public and which the former officer or employee acquired in the course of his or her official duties or use the information for his or her personal gain or the benefit of anyone.
  - (b) No former officer or employee of the city shall within a period of one year after termination of city service or employment and for compensation appear before any city agency in relation to any case, proceeding or application with respect to which such person was directly concerned or which was under the person's active consideration while employed or in the service of the city.
  - (c) A former officer or employee of the city may, within a period of one year after termination of city service or employment and for compensation: (1) appear before any city agency in any case, proceeding or application, with respect to which knowledge or information in relation to such case, proceeding or application, was made available to the former officer or employee during the term of employment or service; or (2) assist another person or business, including but not limited to one in which such person is an officer or employee, in any official act or action by the city; provided, that in either instance the former city officer or employee shall first file an affidavit as provided below.  
Such former officer or employee of the city shall file a sworn affidavit with the city agency involved stating that the former officer or employee (1) was not directly concerned with, (2) did not actively consider, (3) did not participate in, and (4) was not given access to knowledge or information not readily available to the public during the period of said active service or employment, with respect to such case, proceeding or application or other matter before the city agency. All city agencies that receive such an affidavit shall forward a copy to the ethics commission.
  - (d) For the purposes of this section, the term "appear before any city agency" includes acting as an agent or attorney for, or otherwise representing, any other person or business in any formal or informal appearance. "Appear" also includes making any oral or written communications, including letters or telephone calls, to any city agency or personnel with the intent to influence on behalf of any other person or business. The date of termination of city service or employment shall be defined as the date upon which a person's resignation, dismissal or retirement takes effect.
  - (e) No officer or employee of the city shall do business with any former officer or employee who falls within the scope of this section unless such former officer or employee first files a sworn affidavit as provided herein.
  - (f) Any former officer or employee who falls within the scope of this section and who makes a false statement in the person's sworn affidavit or files a false affidavit shall be deemed to have committed perjury and thereby subject to the provisions of Section 710 1060 of HRS Chapter 710 (Penal Code), and be punished as provided in said Chapter 710.
  - (g) This section shall not prohibit any city agency from contracting with a former officer or employee to act on a matter on behalf of the city within the period of limitation stated herein and shall not prevent such officer or employee from appearing before any city agency in relation to such employment.
- (Sec. 6-1.3, R.O. 1978 (1983 Ed.); Am. Ord. 90-96, 96-58)

**Sec. 3-8.4 Financial disclosures.**

- (a) Definitions. The following words used in this section shall have the respective meanings in this subsection:
  - "Business" includes a corporation, a partnership, a sole proprietorship, a trust or foundation, or other individual organization carrying on a business, whether or not operated for profit.
  - "Candidate" has the meaning given it by HRS Section 11-191.
  - "Elective" means all elective offices of the City and County of Honolulu.
  - "Employee" means all full time employees of the executive and legislative branches of the City and County of Honolulu and all full-time employees of the board of water supply and the Honolulu Authority for Rapid Transportation who are exempt from civil service pursuant to Revised Charter Sections 6-1103 and 6-1104, but excluding all persons hired under the Comprehensive Employment and Training Act and under Revised Charter Section 6-1103 (e), (f), (g), and (h).
  - "Income" means gross income as defined by Section 61 of the Internal Revenue Code of 1954.
  - "Officer" has the same meaning as in Section 13-101.4 of the revised charter and shall include officers of the board of water supply and the Honolulu Authority for Rapid Transportation.
- (b) Filing of Financial Disclosures.
  - (1) Candidates to Office. Any candidate for nomination or elective office for the City and County of Honolulu shall file within 10 working days after the deadline for filing as a candidate for office, a financial disclosure as provided herein.
    - (A) Officers. Any officer of the executive or legislative branch shall file a financial disclosure as prescribed herein within 20 working days after taking the oath of office and annually thereafter on or before January 31st of each year until the end of the term of office.
    - (B) If an officer is reelected or reappointed for a new term, the foregoing prescription of filing financial disclosures shall be observed.
  - (2) Employees. Employees of the executive or legislative branches shall file financial disclosures as prescribed herein within 20 working days after the effective date of this section and file financial disclosures annually thereafter on or before January 31st of each year.
- (c) The disclosure of financial interests shall state, in addition to the financial interests of the person disclosing, the financial interests of the person's spouse and dependent children, and shall include:
  - (1) The source and amount of all income of \$1,000.00 or more received, for services rendered, by the person in such person's own name or by any other person for such person's use or benefit during the preceding calendar year and the nature of the services rendered; provided, that information that may be privileged by law or individual items of compensation that constitute a portion of the gross income of the business or profession from which the person derives income need not be disclosed.
  - (2) The name of each creditor to whom the value of \$3,000.00 or more was owed during the preceding calendar year and the original amount and amount outstanding; provided that debts arising out of retail installment transactions for the purchase of consumer goods need not be disclosed.
  - (3) The amount and identity of every ownership or beneficial interests held during the disclosure period in any business incorporated, regulated, or licensed to carry on business in the state having a value of \$5,000.00 or

more or equal to 10 percent of the ownership of the business and, if the interest was transferred during the preceding calendar year, the date of the transfer; provided, that an interest in the form of an account in a federal or state regulated financial institution, an interest in the form of a policy in a mutual insurance company, or individual items in a mutual fund or a blind trust, if the mutual fund or blind trust has been disclosed pursuant to this paragraph, need not be disclosed.

- (4) Every officership, directorship, trusteeship or other fiduciary relationship held in a business during the preceding calendar year, the term of office and the annual compensation.
  - (5) The street address, if any, the tax map key number, if any, and the value of any real property in the City and County of Honolulu in which the person holds an interest whose value is \$10,000.00 or more, and if the interest was transferred or obtained during the preceding calendar year, a statement of the amount and nature of the consideration received or paid in exchange for such interest, and the name of the person furnishing or receiving the consideration; provided that public disclosure shall not be required of the street address and tax map key number of the person's residence.
  - (6) The amount and identity of every creditor interest in an insolvent business held during the preceding calendar year having a value of \$5,000.00 or more.
  - (7) The names of clients personally represented before city agencies, except in ministerial matters, for a fee or compensation during the preceding calendar year and the names of the city agencies involved.
- (d) Filing Requirements.
- (1) All public financial disclosures shall be filed with the office of the city clerk and a copy shall be transmitted by that office to the ethics commission. All confidential disclosures shall be filed with the city ethics commission.
  - (2) The form for all public financial disclosures shall be as prescribed by the city clerk; provided that the person's residence address, including tax map key number, is disclosed on a separate form for "internal use only" and shall not be publicly disclosed by the city clerk or city ethics commission. The forms for confidential disclosures shall be as prescribed by the city ethics commission.
  - (3) When leaving office or employment with the city. Any officer or employee of the city shall file a financial disclosure as prescribed herein 10 working days before an officer is to leave such person's office or an employee is to terminate such person's employment with the city. This requirement will also include transfer of an officer or employee from the city to either the state or federal governments.
- (e) The financial disclosure statements of the following persons shall be public record and may be opened for inspection by the public during office hours of the city clerk:
- (1) All candidates for elective office;
  - (2) All elected officers;
  - (3) The directors of the city agencies and their first deputies.
- All other financial disclosure statements required to be filed under this section shall be confidential.
- (f) Penalty.
- (1) Officers and Employees.
    - (A) Late Filing. Any officer or employee of the city whose required financial disclosure is not received by the ethics commission or the city clerk, whichever is applicable, by the close of business on the deadline date specified in subsection (b), shall be given a notice of violation of the provisions of this section by the ethics commission or the city clerk, whichever is applicable. The notice shall state that the city officer or employee has 10 days from receipt of the notice in which to file the required financial disclosure or be subject to the penalties provided in this paragraph and Section 3-8.5. Any city officer or employee, who has received this notice and fails to file the required disclosure within 10 days of receipt of the notice, shall be subject to a civil fine according to the following schedule: \$100.00 for the first late filing; \$200.00 for the second late filing; and thereafter, for each additional late filing, the fine imposed for the previous late filing plus \$200.00. Any penalty or fine shall be imposed after an opportunity for a hearing conducted by the ethics commission under HRS Chapter 91.
    - (B) Failure to File. Any officer or employee of the city who fails to file a financial disclosure as required in this section within 30 days from receipt of the notice of violation referred to in paragraph (A), shall, in addition to any civil fines imposed under paragraph (A), be subject to:
      - (i) The provisions of Section 3 8.5 relating to noncompliance; or
      - (ii) A criminal penalty of a fine of not more than \$2,000.00 or of imprisonment for not more than one year, or of both such fine and imprisonment, or to both (i) and (ii).
  - (2) Candidates.
    - (A) Late Filing. Any candidate whose required financial disclosure is not received by the city clerk by the close of business on the deadline date specified in subsection (b), shall be given a notice of violation of the provisions of this section by the city clerk. The notice shall state that the candidate has 10 days from receipt of the notice in which to file the required financial disclosures or be subject to the penalties provided in this paragraph. Any candidate, who has received this notice and fails to file the required disclosure within 10 days of receipt of the notice, shall, upon election to office, be subject to the provisions of Section 3-8.5 and a civil fine according to the following schedule: \$100.00 for the first late filing; \$200.00 for the second late filing; and thereafter, for each additional late filing, the fine imposed for the previous late filing plus \$200.00. Any penalty or fine shall be imposed after an opportunity for a hearing conducted by the ethics commission under HRS Chapter 91.
    - (B) Failure to File. Any candidate who fails to file a financial disclosure as required in this section within 30 days from receipt of the notice of violation referred to in paragraph (A), shall, in addition to any civil fines imposed under paragraph (A), be subject to a criminal penalty of a fine of not more

than \$2,000.00 or of imprisonment for not more than one year, or of both such fine and imprisonment.

(3) Rules.

The ethics commission shall have the authority to establish rules to implement subdivisions (1) and (2).  
(Sec. 6-1.4, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 95-23, 96-58, 07-43, 09-9, 14-1)

**Sec. 3-8.5 Violation Penalty.**

- (a) The failure to comply with or any violation of the standards of conduct of this article or of Article XI of the revised charter shall be grounds for impeachment of elected officers and for the removal from office or from employment of all other officers and employees. The appointing authority may, upon the recommendation of the ethics commission, reprimand, put on probation, demote, suspend or discharge an employee found to have violated the standards of conduct established by this article. Nothing contained herein shall preclude any other remedy available against such officer or employee.
- (b) In addition to any other penalty provided by law, any contract entered into by the city in violation of Article XI of the revised charter or of this article is voidable on behalf of the city; provided, that in any action to void a contract pursuant to this article the interest of third parties who may be damaged thereby shall be taken into account, and the action to void the official act or action is initiated within six months after the matter is determined by the ethics commission.
- (c) The city, by the corporation counsel, may recover any fee, compensation, gift or profit received by any person as a result of a violation of the standards in this article or in Article XI of the revised charter by an officer or employee or former officer or employee. Action to recover under this subsection shall be brought within four years of such violation.
- (d) In addition to any other penalty, sanction or remedy provided by law, the ethics commission may impose a civil fine against a former or current officer or exempt employee of the city who has been found by the ethics commission to have violated the standards of conduct in Article XI of the revised charter or this article. For the purposes of this section, "officer" has the same meaning as in Section 13-101.4 of the revised charter and shall include officers of the board of water supply and the Honolulu Authority for Rapid Transportation and "exempt employee" means all employees of the executive and legislative branches of the City and County of Honolulu and all full-time employees of the board of water supply and the Honolulu Authority for Rapid Transportation who are exempt from civil service pursuant to revised charter Sections 6-1103(a)-(d), (i) and (k) and 6-1104(a)-(d), but shall not mean exempt employees in clerical positions or employees within a bargaining unit as described in Section 89-6, Hawaii Revised Statutes.
- (1) Where a civil fine has not otherwise been established in this article, the amount of the civil fine imposed by the ethics commission for each violation shall not exceed the greater of \$5,000 or three times the amount of the financial benefit sought or resulting from each violation.
- (2) In determining whether to impose a civil fine and the amount of the civil fine, the ethics commission shall consider the totality of the circumstances, including, but not limited to:
- (A) The nature and seriousness of the violation;
  - (B) The duration of the violation;
  - (C) The effort taken by the officer or exempt employee to correct the violation;
  - (D) The presence or absence of any intention to conceal, deceive or mislead;
  - (E) Whether the violation was negligent or intentional;
  - (F) Whether the officer or exempt employee demonstrated good faith by consulting the ethics commission staff or another government agency or an attorney;
  - (G) Whether the officer or exempt employee had prior notice that his or her conduct was prohibited;
  - (H) The amount, if any, of the financial or other loss to the city as a result of the violation;
  - (I) The value of anything received or sought in the violation;
  - (J) The costs incurred in enforcement, including reasonable investigative costs and attorneys' fees;
  - (K) Whether the officer or exempt employee was truthful and cooperative in the investigation; and
  - (L) Any other relevant circumstance.
- (3) No civil fine shall be imposed unless the requirements of Chapter 91 and HRS Section 46-1.5(24), have been met.
- (4) The ethics commission may recover any civil fines imposed pursuant to this section and may, through the corporation counsel, institute proceedings to recover any civil fines.
- (5) Pursuant to Chapter 1, Article 19, the ethics commission shall have executive authority to add unpaid fines by administrative order to any taxes, fees or charges.
- (6) Notwithstanding Section 3-6.3(c), no civil fine may be imposed under this subsection:
- (A) If the applicable complaint or request for advisory opinion is submitted more than four years after the alleged violation occurred; or
  - (B) For an investigation commenced by the commission on its own initiative, if the investigation is commenced more than four years after the alleged violation occurred.

(Sec. 6-1.5, R.O. 1978 (1983 Ed.); Am. Ord. 90-96, 02-15, 07-43, 09-9, 12-31)

**Sec. 3-8.6 Additional standards of conduct concerning campaign contributions and campaign assistance.**

- (a) This section applies to the conduct of an exempt officer or employee.  
This section is additional to the prohibitions of Section 6-1112(2) and (3) of the revised charter, both of which are directed at an officer or employee in the civil service.
- (b) For the purpose of this section:  
"Campaign assistance" means any service, including donating time or anything of value, to assist:
- (1) The campaign of a person seeking nomination or election to a public office;
  - (2) The effort to:
    - (A) Place a question on an election ballot; or
    - (B) Approve or reject a question which is on an election ballot;
  - (3) The effort to recall an officer; or

- (4) The activities of a political party or campaign committee by:
  - (A) Serving as a member;
  - (B) Soliciting members;
  - (C) Performing administrative or other duties;
  - (D) Raising funds;
  - (E) Campaigning for the political party's or campaign committee's candidate or position on an issue; or
  - (F) Volunteering on a campaign or campaign committee.

"Campaign committee" means a "committee" as defined under HRS Section 11-191.

"Campaign contribution" means a "contribution" as defined under HRS Section 11-191.

"Exempt officer or employee" means an officer or employee, including officers and employees of the board of water supply and the Honolulu Authority for Rapid Transportation, exempt from the civil service pursuant to Section 6-1103, Section 6-1104, or any other provision of the revised charter.

"Officer or employee" means:

- (1) An officer or employee within the definition of "officers and employees" under Section 3-8.1; and
- (2) For the purpose of this section, an independent contractor with the city, the board of water supply or the Honolulu Authority for Rapid Transportation, whether or not contracted pursuant to competitive bidding procedures, and including, without limitation, a municipal bond dealer.

"Political party" means the same as defined under HRS Section 11-61.

(c) An exempt officer or employee shall not:

- (1) Coerce, demand, or otherwise require a campaign contribution or campaign assistance from another officer or employee;
- (2) Deny employment to a person who will not agree, as a condition of the employment, to:
  - (A) Make a campaign contribution or request a campaign contribution from another person; or
  - (B) Render campaign assistance or request another person to render campaign assistance;
- (3) Discharge, demote, decrease the compensation of, harass, or otherwise punish another officer or employee because that officer or employee:
  - (A) Refused to make a campaign contribution or render campaign assistance when requested or demanded by the exempt officer or employee or a third person;
  - (B) Sought or received an advisory opinion from the ethics commission on a possible violation of this subsection; or
  - (C) Filed with a public agency or officer a complaint alleging a violation of this subsection;
- (4) Promise or threaten to discharge, demote, decrease the compensation of, harass, or otherwise punish another officer or employee unless that officer or employee:
  - (A) Makes a campaign contribution or renders campaign assistance as requested or demanded by the exempt officer or employee or a third person;
  - (B) Refrains from seeking an advisory opinion from the ethics commission on a possible violation of this subsection; or
  - (C) Refrains from filing with a public agency or officer a complaint alleging a violation of this subsection;
- (5) Promote or increase the compensation of another officer or employee because that officer or employee made a campaign contribution or rendered campaign assistance when requested or demanded by the exempt officer or employee or a third person;
- (6) Solicit or request a specified or minimum campaign contribution amount from another officer or employee;
- (7) Request another officer or employee to provide a specified or minimum amount of campaign assistance; or
- (8) Solicit or receive any campaign contribution from a person, including another officer or employee, in a building or facility during its use for official city functions.

An exempt officer or employee also shall not request or direct another exempt officer or employee to engage in an activity prohibited under this subsection.

(d) The activities prohibited under subsection (c) shall not preclude an exempt officer or employee from:

- (1) Voting as the exempt officer or employee chooses;
- (2) Voluntarily expressing an opinion on any political candidate, question, or issue;
- (3) Voluntarily serving as a member of a political party, campaign committee, or other political organization;
- (4) Voluntarily making a campaign contribution or rendering campaign assistance; or
- (5) Voluntarily soliciting or requesting a campaign contribution or campaign assistance from another person, so long as the solicitation or request does not violate subsection (c).

(e) An exempt officer or employee who violates any provision of subsection (c) shall be guilty of a petty misdemeanor.

The prosecution of a violation pursuant to this subsection shall be commenced within two years after commitment of the violation. No violation shall be prosecuted after the expiration of the two-year period.

The prosecuting attorney shall be responsible for prosecution of a violation. If the prosecuting attorney becomes disqualified, the state attorney general shall have the responsibility for prosecution.

The penalty of this subsection shall be in addition to the penalty provided under Section 3-8.5(a). Both penalties may be imposed for the same violation.

(Added by Ord. 93-113; Am. Ord. 94-54, 12-31)

**Sec. 3-8.7 Gifts to mayor, prosecuting attorney, and appointed officer or employee--Prohibition under certain circumstances.**

(a) For the purpose of this section:

"Appointed officer or employee" means an officer or employee, as defined under Section 3-8.1, other than an elected officer and shall include officers and employees of the board of water supply and the Honolulu Authority for Rapid Transportation.

"Appointed officer" includes a member of a board or commission including board members of the board of water supply and the Honolulu Authority for Rapid Transportation.

"Gift" means any gift, whether in the form of money, goods, service, loan, travel, entertainment, hospitality, thing, or promise or in any other form.

- (b) Neither the mayor, the prosecuting attorney, nor any appointed officer or employee shall solicit, accept, or receive, directly or indirectly, any gift under circumstances in which it can be reasonably inferred that the gift is intended:
  - (1) To influence the solicitor or recipient in the performance of an official duty; or
  - (2) As a reward for any official action on the solicitor's or recipient's part.
- (c) During each one-year period beginning on July 1st and ending on June 30th, neither the mayor, the prosecuting attorney, nor any appointed officer or employee shall solicit, accept, or receive, directly or indirectly, from any one source any gift or gifts, not exempted by subsection (d), valued singly or in the aggregate in excess of \$200.00.
- (d) Exempted from the prohibition of subsection (c) are the following:
  - (1) Gifts received by will or intestate succession;
  - (2) Gifts received by way of distribution of any inter vivos or testamentary trust established by a spouse or ancestor;
  - (3) Gifts from a spouse, fiancé, fiancée, any relative within four degrees of consanguinity or the spouse, fiancé, or fiancée of such a relative. A gift from any such person shall not be exempt from subsection (c) if the person is acting as an agent or intermediary for any person not covered by this subdivision;
  - (4) Political campaign contributions that comply with state law;
  - (5) Anything available or distributed to the public generally without regard to the official status of the recipient;
  - (6) Gifts that, within 30 days after receipt, are returned to the giver or donated to a public body or to a bona fide educational or charitable organization without the donation being claimed by the mayor, the prosecuting attorney, or an appointed officer or employee as a charitable contribution for tax purposes. In the event the gift is donated to a public body or to a bona fide educational or charitable organization, the donor shall send, along with the gift, documentation acknowledging the initial giver of the gift; and
  - (7) Exchanges of approximately equal value on holidays, birthdays, or special occasions.
- (e) A violation of this section by the mayor, the prosecuting attorney, or an appointed officer or employee shall be punishable in accordance with Section 3-8.5.  
(Added by Ord. 94-49; Am. Ord. 02-15, 12-31)

**Sec. 3-8.8 Gifts to councilmember--Prohibition under certain circumstances.**

- (a) No councilmember shall solicit, accept or receive, directly or indirectly, any gift, whether in the form of money, goods, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it can be reasonably inferred that the gift is intended to influence the councilmember in the performance of the councilmember's official duties or is intended as a reward for any official action on the councilmember's part.
- (b) During each one-year period beginning on July 1st and ending on June 30th, no councilmember shall solicit, accept, or receive, directly or indirectly, from any one source any gift or gifts, not exempted by subsection (c), valued singly or in the aggregate in excess of \$200.00.
- (c) Exempted from the prohibition of subsection (b) are the following:
  - (1) Gifts received by will or intestate succession;
  - (2) Gifts received by way of distribution of any inter vivos or testamentary trust established by a spouse or ancestor;
  - (3) Gifts from a spouse, fiancé, fiancée, any relative within four degrees of consanguinity of the councilmember or the spouse, fiancé, or fiancée of such a relative. A gift from any such person shall not be exempt from subsection (b) if the person is acting as an agent or intermediary for any person not covered by this subdivision;
  - (4) Political campaign contributions that comply with state law;
  - (5) Anything available or distributed to the public generally without regard to the official status of the recipient;
  - (6) Gifts that, within 30 days after receipt, are returned to the giver or donated to a public body or to a bona fide educational or charitable organization without the donation being claimed by the councilmember as a charitable contribution for tax purposes. In the event the gift is donated to a public body or bona fide educational or charitable organization, the councilmember shall send, along with the gift, documentation acknowledging the initial giver of the gift; and
  - (7) Exchanges of approximately equal value on holidays, birthdays, or special occasions.
- (d) A violation of this section by a councilmember shall be punishable in accordance with Section 3-8.5.  
(Added by Ord. 94-48; Am. Ord. 02-15)

**Sec. 3-8.9 Additional standards of conduct concerning campaign contributions and campaign assistance from lobbyists.\***

[\***Editor's Note:** In Civil No. 96-2844-07 in the First Circuit Court, State of Hawaii, Section 3-8.9(c) and (d) were held to conflict with and be preempted by HRS Chapter 11. The final judgment was entered on August 4, 1998 and was not appealed.]

- (a) For the purpose of this section:
  - "Campaign assistance," "campaign committee," "campaign contribution," "exempt officer or employee" and "political party" mean the same as defined under Section 3-8.6.
  - "Candidate for city office" means any person who:
    - (1) Falls within the definition of a candidate contained in HRS Section 11-191;
    - (2) Files nomination papers in accordance with the provisions of HRS Chapter 12, Part I; or
    - (3) Makes any public statement concerning the person's intention to be a candidate for a city office within two years preceding the next special election, coinciding with a general election, for that city office.
  - "Lobbyist" means any person:

- (1) Seeking, or having sought within two years preceding any activity prohibited under this section, any type of discretionary approval, whether legislative, administrative, or quasi-judicial, from the city, including, without limitation, a landowner, developer, architect, engineer, planner, or agent of the foregoing; or
  - (2) Qualifying as a "lobbyist" under Section 4-1.2.
  - (3) Excluded from the provisions of (1) and (2) above are activities conducted by neighborhood boards, community associations, coalitions, and individuals not employed by those specified in subdivision (1), unless they engage the services of a paid lobbyist.
- (b) An exempt officer or employee shall not:
- (1) Coerce, demand, or otherwise require a campaign contribution or campaign assistance from a lobbyist;
  - (2) Disapprove the application of or otherwise punish a lobbyist because that lobbyist:
    - (A) Refused to make a campaign contribution or render campaign assistance when requested or demanded by the exempt officer or employee or a third person;
    - (B) Sought or received an advisory opinion from the ethics commission on a possible violation of this section; or
    - (C) Filed with a public agency or officer a complaint alleging a violation of this section;
  - (3) Promise or threaten to disapprove the application of or otherwise punish a lobbyist, unless that lobbyist:
    - (A) Makes a campaign contribution or renders campaign assistance as requested or demanded by the exempt officer or employee or a third person;
    - (B) Refrains from seeking an advisory opinion from the ethics commission on a possible violation of this section; or
    - (C) Refrains from filing with a public agency or officer a complaint alleging a violation of this section;
  - (4) Approve the application of a lobbyist because that lobbyist made a campaign contribution or rendered campaign assistance when requested or demanded by the exempt officer or employee or third person;
  - (5) Solicit or request a specified or minimum campaign contribution amount from a lobbyist;
  - (6) Request a lobbyist to provide a specified or minimum amount of campaign assistance;
  - (7) Solicit or receive any campaign contribution from a person, including a lobbyist, in a building or facility during its use for official city functions; or
  - (8) Request or direct another exempt officer or employee to engage in an activity prohibited under this subsection.
- An exempt officer or employee shall not be prohibited from soliciting or requesting a campaign contribution or campaign assistance from a lobbyist, so long as the solicitation or request does not violate this subsection.
- (c) A lobbyist shall not make a campaign contribution or render campaign assistance to any candidate for city office within two years after receipt of a discretionary approval, whether legislative, administrative, or quasi-judicial, from the city.
- (d) A candidate for city office shall not accept a campaign contribution from a lobbyist within two years after the lobbyist receives a discretionary approval, whether legislative, administrative, or quasi-judicial, from the city.  
A candidate for city office shall not accept or use campaign assistance from a lobbyist within two years after the lobbyist receives a discretionary approval, whether legislative, administrative, or quasi-judicial, from the city.
- (e) Any lobbyist, as defined under this section, who cannot make a campaign contribution to a candidate for city office shall register with the clerk. A lobbyist receiving a discretionary approval shall register within 10 days of receipt of the approval.  
A lobbyist who is not seeking a discretionary approval shall register simultaneously with registration as a lobbyist under Chapter 4.
- (f) An exempt officer or employee, candidate for city office, or lobbyist who violates any provision of this section shall be guilty of a petty misdemeanor.  
The prosecution of a violation pursuant to this subsection shall be commenced within two years after commitment of the violation. No violation shall be prosecuted after the expiration of the two-year period.  
The prosecuting attorney shall be responsible for prosecution of a violation. If the prosecuting attorney becomes disqualified, the state attorney general shall have the responsibility for prosecution.  
The penalty of this subsection shall be in addition to the penalty provided under Section 3-8.5(a) if applicable to the violator. Both penalties may be imposed for the same conduct.

(Added by Ord. 94-54)

## **Article 9. Appointment on Boards, Commissions and Committees**

### **Sections:**

- 3-9.1 Purpose.**
- 3-9.2 Method of appointment on boards, commissions and committees.**
- 3-9.3 Termination of appointment.**
- 3-9.4 Inapplicability.**
- 3-9.5 Composition on boards and commission.**
- 3-9.6 Removal of members of boards, commissions and committees.**

### **Sec. 3-9.1 Purpose.**

This article is enacted pursuant to the Revised Charter of Honolulu, Section 13 103(b), which provides that members of boards and commissions shall be appointed by the mayor and confirmed by the council. (Added by Ord. 90 54)

### **Sec. 3-9.2 Method of appointment on boards, commissions and committees.**

- (a) The mayor is authorized to appoint, subject to council approval, members to boards, commissions or committees for which the mayor has been initially authorized by charter, law or ordinance to make such original appointment.
- (b) The mayor shall submit proposed appointments to boards, commissions or committees in accordance with the following requirements:

- (1) All boards, commissions or committees shall, no later than 90 days prior to the expiration of a member's appointed term, advise the mayor and council of the pending expiration of the appointed member's term;
- (2) Within 30 days of the issuance of such notice of pending expiration, the mayor shall submit to the council a written request for approval of appointment to the respective board, commission or committee.
- (c) The mayor's written request for approval for appointment to a board, commission or committee shall include the effective date of such appointment, effective date of expiration and reasons for appointment.
- (d) Newly Created Boards, Commissions or Committees. In the case of newly created boards, commissions or committees, the mayor shall submit a written request for approval of appointment to the council no later than 90 days from the effective date of the action establishing such board, commission or committee.

(Added by Ord. 90-54; Am. Ord. 97-57)

**Sec. 3-9.3 Termination of appointment.\***

All appointments covered by this article shall terminate on the expiration date noted on the mayor's letter of appointment, and in no instance shall such appointees immediately continue to serve in the same capacity beyond the expiration date whether as a temporary appointee or as a reappointed member for a full consecutive term. (Added by Ord. 90-54; Am. Ord. 97-57) [\*Editor's Note: The Hawaii Supreme Court in Fasi v. City Council of the City and County of Honolulu, 72 Haw. 513, 823 P.2d 742 (1992), held that the City Council could not enact this provision which forbids members of certain boards and commissions from holding over until their successors have been appointed and qualified.]

**Sec. 3-9.4 Inapplicability.**

- (a) This article shall not apply to appointments to boards, commissions or committees for which the mayor is not required by law, charter or ordinance, or rules to have either the council's approval or confirmation.
- (b) This article also shall not apply to appointments for temporary vacancies as provided for in Article 1 of this chapter.
- (c) This article also shall not apply to appointments to the transportation commission established under Revised Charter Section 6-1704.

(Added by Ord. 90-54; Am. Ord. 97-02, 97-57)

**Sec. 3-9.5 Composition on boards and commissions.**

The mayor shall nominate and appoint, subject to council confirmation, representatives of both genders to serve as members of each city board and commission. This requirement is in addition to any other qualifications that may be required for a city board or commission governed by charter or by law. (Added by Ord. 92-58)

**Sec. 3-9.6 Removal of members of boards, commissions and committees.**

- (a) When a member of a board, commission or committee to which this article applies has:
  - (1) Failed to attend four or more consecutive regularly scheduled meetings of the board, commission or committee spanning a period in excess of one month;
  - (2) Failed to attend more than one-third of the regularly scheduled meetings of the board, commission or committee in any calendar year; or
  - (3) Failed to provide to the chair the certification of participation required by Section 3-12.5 within 30 days following the applicable deadline established in Section 3-12.3(a) or (b), and, after having been given written notice by the chair that the member has 30 days from the date of that notice to provide the certification, the member fails to provide the certification to the chair by the chair's 30-day deadline, the chair of the board, commission or committee shall provide written notice of the fact to the mayor.
- (b) In addition to the notice referred to in subsection (a), the chair shall provide the mayor with the following:
  - (1) A record of the attendance of the board, commission or committee member, from the time of the council's approval of the appointment;
  - (2) Minutes of the meetings not attended by the board, commission or committee member and any written communications and records of any telephonic communications from the board, commission or committee member to the chair or staff of the board, commission or committee stating why the meetings would not be or were not attended; and
  - (3) A statement that the board, commission or committee member has or has not provided certification of participation in the sunshine law training program prior to the deadline established by the chair under subsection (a)(3).
- (c) Within 10 days of the mayor's receipt of the notice referred to in subsection (a), the following shall be mailed by the mayor or the mayor's designee to the board, commission or committee member at the member's last known address on file with the board, commission or committee:
  - (1) A copy of the notice referred to in subsection (a);
  - (2) A copy of this section;
  - (3) If the notice to the mayor included a statement that the member of the board, commission or committee had not provided the certification required under Section 3-12.5, a copy of Chapter 3, Article 12; and
  - (4) A statement of the deadline for response, as specified in subsection (d).  
It shall be the responsibility of the member to keep the board, commission or committee apprised of the member's current address.
- (d) The board, commission or committee member shall have 30 days following the notification of the mayor in which to provide the mayor with a written statement that the member:
  - (1) Wishes to continue to serve on the board, commission or committee; or
  - (2) Wishes to resign from the board, commission or committee.
- (e) If the member states that he or she wishes to continue to serve, the member shall provide the mayor with one or more of the following:
  - (1) True information or documentation refuting the record of nonattendance or nonparticipation;

- (2) A true statement as to why the member failed to attend the meetings referred to in subsection (a), to timely participate in the sunshine law training program, or to timely certify participation in the sunshine law training program; or
- (3) A true statement of other mitigating circumstances.
- (f) If the board, commission or committee member provides a statement pursuant to subsection (d) that the member wishes to continue to serve, the mayor may, following the 30-day period referred to in subsection (d), but prior to 90 days following the notification given to the mayor pursuant to subsection (a):
  - (1) Issue a notice of removal of the board, commission or committee member from the board, commission or committee;
  - (2) Issue a notice of conditional retention of the board, commission or committee member setting forth conditions under which the mayor will not remove the member; or
  - (3) Issue a notice of unconditional retention of the board, commission or committee member.

Prior to the issuance of the notice the mayor may consult with, among others, the director of the department or agency to which the board, commission or committee is attached and the administrator of the sunshine law training program. The mayor's notice of removal, conditional retention or retention shall be mailed to the board, commission or committee member at the member's last known address on file with the board, commission or committee. A copy of the mayor's notice of removal, conditional retention or retention shall be given to the chair of the board, commission or committee. If the mayor fails to issue a notice under this subsection prior to the end of the 90-day period, the board, commission or committee member shall be deemed to be retained.
- (g) If the mayor finds that a board, commission or committee member has not abided by the conditions of a notice of conditional retention, the mayor may, after notifying the member of this finding and giving the member 14 days in which to respond, issue a notice of removal of the board, commission or committee member and notify the board, commission or committee member and chair in the manner provided in subsection (f).
- (h) The chair of a board, commission or committee who provides the mayor a notice pursuant to subsection (a) may also provide a copy of the notice to the director of any department or the head of any agency to which the board, commission or committee is attached and the department's director or the agency's head may make to the mayor any recommendation deemed appropriate.
- (i) In the event the board, commission or committee member referred to in subsection (a) is the chair of a board, commission or committee, the vice-chair of the board, commission or committee shall act in the place of, and receive the notices provided for, the chair under this section.
- (j) Two days following the issuance of a notice of removal, the board, commission or committee member named in the notice shall be deemed removed as a member of the board, commission or committee and the mayor shall notify the council that the board, commission or committee member has been removed from office. Notwithstanding Section 3-9.3, the removed board, commission or committee member may continue to serve on the board, commission or committee until a replacement has been appointed by the mayor and confirmed by the council.
- (k) Notwithstanding the foregoing provisions of this section, a member of a board, commission or committee who is convicted of providing a false certification of participation in the sunshine law training program in violation of Section 3-12.5(b), or is convicted of providing false information or documentation or a false statement to the mayor in violation of subsection (e) shall, upon conviction, be immediately removed as a member of the board, commission or committee.

(Added by Ord. 97-03; Am. Ord. 03-30)

## **Article 10. Oahu Historic Preservation Commission**

### **Sections:**

- 3-10.1 Purpose and intent.**
- 3-10.2 Definitions.**
- 3-10.3 Commission established.**
- 3-10.4 Officers and expenses.**
- 3-10.5 Staff.**
- 3-10.6 Meetings.**
- 3-10.7 Powers and duties.**
- 3-10.8 Establishment of the Oahu register of historic places.**
- 3-10.9 Nominations to the Oahu, Hawaii or national register of historic places.**
- 3-10.10 Guidelines.**
- 3-10.11 Accounting and funding.**

### **Sec. 3-10.1 Purpose and intent.**

- (a) The council finds that preservation of historic properties enhances the educational, cultural, economic and general welfare of the county. It is deemed essential that the qualities relating to the history and culture of the City and County of Honolulu be preserved through comprehensive historic preservation planning and administration. Implementation of the HRS Chapter 6E on historic preservation, the Honolulu general plan and the adopted Oahu development plans provide the means to perpetuate the value of various cultures of which our community is comprised.
- (b) It is the intent of this article to:
  - (1) Protect and preserve historic properties and artifacts in the county and encourage, where appropriate, their special emphasis and attention to the cultural resources of the native Hawaiian people;
  - (2) Encourage the restoration, rehabilitation and continued functional use of historic properties;
  - (3) Encourage the identification, preservation, maintenance, development, promotion and enhancement of those historic properties which represent or reflect distinctive elements of cultural, social, economic, political and

architectural history, and to encourage the designation of historic properties, thereby ensuring that our cultural and historic heritage will be imparted to present and future generations of residents and visitors; and  
(4) Formulate county-wide, comprehensive, historic preservation polices, programs and plans.

(Added by Ord. 93-55)

**Sec. 3-10.2 Definitions.**

For purposes of this article, unless it is plainly evident from the context that a different meaning is intended, certain terms and words are defined as follows:

"Commission" means the Oahu Historic Preservation Commission.

"Historic preservation" means the research, identification, protection, restoration, rehabilitation, maintenance, and interpretation of districts, sites, buildings, structures, areas or objects significant to the history, architecture, archaeology or culture of the county, state or nation.

"Historic properties" means any prehistoric or historic district, site, building, structure, area or object significant in the history, architecture, archaeology, or culture of the county, state, and nation, including but not limited to those listed on the Hawaii or national registers of historic places and those that are of historic or cultural significance to the indigenous people of this island.

"Mayor" means the mayor of the City and County of Honolulu.

"Professional" means a person with qualifications enumerated in Title 36, Code of Federal Regulations, Part 61, Appendix

A.

"State" means the State of Hawaii. (Added by Ord. 93-55)

**Sec. 3-10.3 Commission established.**

(a) There is established a commission to be known as the "Oahu Historic Preservation Commission" which shall be attached to the planning department.

(b) The commission shall consist of nine members appointed by the mayor with the approval of the council. The commission members shall be appointed from among professionals and persons with special interest in the following disciplines:

- (1) Architecture;
- (2) History;
- (3) Archaeology;
- (4) Planning;
- (5) Architectural history; and
- (6) Hawaiian culture;

provided that the commission shall include an expert in architectural history, two archaeologists, a Hawaiian mythology expert and native speaker, an expert in Hawaiian culture and a Hawaiian Kahu (religious expert). At least a majority of the members shall be professionals from among the disciplines listed in (1) through (6). Members also shall reflect an ethnic diversity to carry out the purposes of the commission to identify, protect, preserve, and restore historic properties and artifacts of all ethnic cultures. The mayor shall solicit lists of two or more persons, recommended by the community and professional organizations and appropriate ethnic organizations dedicated to preserving unique cultural heritages, including but not limited to the Center for Hawaiian Studies at the University of Hawaii-Manoa, the Hawaii Civic clubs, the Honolulu Chapter of the American Institute of Architects, and others, for consideration in making commission appointments. All commission members shall have a demonstrated interest, competence and knowledge in historic preservation.

(c) The disciplines of archaeology, architecture, architectural history, and history shall have professional representation on the commission, to the extent such professionals are available to the community. In the event such expertise is not available within the county, experts from the statewide community may be appointed to the commission. When one of the aforementioned disciplines is not professionally represented, the commission shall seek, through a consultant contract or other appropriate means, the expertise in the unrepresented discipline when considering national register nominations and other activities that will affect properties which are normally evaluated by a professional in such a discipline.

(d) Whenever possible, the commission shall include members from different areas of the county who possess a knowledge and interest in local area history.

(e) Applicability of Charter. Except as otherwise provided in this article, Section 13-103, Revised Charter of Honolulu 1973, as amended, shall apply to the commission.

(Added by Ord. 93-55)

**Sec. 3-10.4 Officers and expenses.**

(a) The commission shall annually elect a chair and vice chair from its membership.

(b) The commission members shall serve without compensation but shall be reimbursed for expenses necessary for the performance of their duties.

(Added by Ord. 93-55)

**Sec. 3-10.5 Staff.**

The commission shall employ a full-time staff to include, but not limited to, a staff archaeologist, an archivist-researcher, and a clerk-typist. (Added by Ord. 93-55)

**Sec. 3-10.6 Meetings.**

(a) The commission shall hold meetings at least quarterly. All meetings shall be held in accordance with HRS, Chapter 92, and any person, agency or a representative thereof shall be entitled to appear and be heard on any matter before the commission.

(b) Special meetings may be called by the chair or by any three members of the commission.

(c) The commission shall publish minutes of its meetings in a newspaper of general circulation in the county.

(Added by Ord. 93-55)

**Sec. 3-10.7 Powers and duties.**

- The commission:
- (a) Shall advise and assist federal, state and county government agencies in carrying out their historic preservation responsibilities;
  - (b) Shall provide public information, education, training and technical assistance relating to the national, state and county historic preservation programs;
  - (c) May initiate nominations of historic properties for inclusion in the Hawaii or national registers of historic places;
  - (d) Shall accept, review and recommend to the state historic preservation officer, nominations of historic properties to the keeper of the national register. This activity shall be consistent and coordinated with the identification, evaluation and preservation priorities of the statewide comprehensive historic preservation planning process, and shall be consistent with the requirements of Section 101(c)(2) of the National Historic Preservation Act;
  - (e) Shall maintain a system for the survey, identification and inventory of historic properties and archaeological sites within the county. This system shall be coordinated with and be complementary to that of the state historic preservation office, but shall not be limited to that office's system;
  - (f) Shall administer the certified local government program of federal assistance for historic preservation within the City and County of Honolulu;
  - (g) Shall, pursuant to rules and regulations adopted by the planning department concerning the review of all proposed projects affecting historic, cultural or archaeological sites, buildings, structures or districts, make recommendations when appropriate to the planning department, the department of land utilization or other city agencies, in accordance with said rules and regulations. Review of all proposed projects shall be conducted by the commission as provided for in said rules and regulations. Such review shall commence, notwithstanding completion of the inventory, no later than January 1, 1995;
  - (h) Shall develop and implement a comprehensive county-wide historic preservation identification and planning process which is consistent and coordinated with the statewide comprehensive historic preservation planning process. The commission shall submit information pertaining to the state inventory of historic places to the state historic preservation officer;
  - (i) Shall also establish a county register of historic places as provided by Section 3-10.8, which shall include, but not be limited to, those sites listed on the Hawaii and national registers, and shall establish policies and procedures for the preservation, acquisition, development and nomination of historic properties to the national and Hawaii registers of historic places;
  - (j) Shall make recommendations to the council for the expenditure of gifts and grants accepted by the council for projects connected with the identification, rehabilitation, restoration and reconstruction of historic properties, the historic preservation planning process, and the promotion of exhibits and other information activities in connection therewith;
  - (k) Shall advise the mayor, the council, and the county planning commission on the establishment of historic districts in the county and regulations thereof;
  - (l) Shall adopt rules pursuant to HRS, Chapter 91, for the implementation of this article and the administration and enforcement of the county's historic preservation program;
  - (m) May review and comment on archaeological reports submitted as part of development proposals to various county agencies;
  - (n) May undertake any other action or activity necessary or appropriate to implement its powers and duties and to implement the purpose of this article. More specifically, these may include, but not be limited to, the following:
    - (1) Recommend new ordinances establishing special districts and archaeological districts;
    - (2) Review and recommend amendments to current policies and laws relating to historic sites;
    - (3) Continually reevaluate building code requirements and recommend amendments that are more sympathetic to historic preservation or provide exemptions for historic properties;
    - (4) Encourage the county, state, and federal governments, and the private sector, to implement appropriate management strategies, curatorships and meaningful interpretive programs at significant historical and archaeological structures, sites, and districts; and
    - (5) Assist in programs of historic preservation including presentations, films, exhibits, conferences, publications and other educational means which increase public awareness and participation in preserving the past;
  - (o) With respect to city-owned or controlled land having historical significance, carry out the policies and provisions of Article 30, Chapter 41, ROH 1990;
  - (p) Shall prepare an annual report that reviews and evaluates the state of historic preservations in the city, which includes but is not limited to its achievements, concerns and recommendations; and
  - (q) May provide design review assistance and comment to appropriated agencies on projects proposed to be located within locally-designated historic and other special districts.

(Added by Ord. 93-55)

**Sec. 3-10.8 Establishment of the Oahu register of historic places.**

- (a) The commission shall establish a register of historic places for the county, hereinafter to be known as the "Oahu Register of Historic Places."
- (b) The commission shall adopt criteria for nominations to and inclusions on the Oahu register, and shall serve as the review board for determining inclusion on the register. Such criteria shall be consistent with, but not limited to, the criteria used for the Hawaii or national registers of historic places.
- (c) The commission shall give special emphasis to inclusion of prehistoric Hawaiian sites for nomination to the Oahu register.

(Added by Ord. 93-55)

**Sec. 3-10.9 Nominations to the Oahu, Hawaii or national register of historic places.**

- (a) Any person or organization, including the commission, may submit a nomination to the Hawaii register of historic places by submitting a completed nomination form to the state historic preservation officer.

- (b) The commission may submit a nomination to the national register by submitting a completed nomination form to the state historic preservation officer.
- (c) Any person or organization may submit a nomination to the Oahu register by submitting a completed nomination form to the county historic preservation officer.
- (d) The commission shall hold a public hearing after receiving notification from the state or county historic preservation officer of properties within the county nominated for inclusion on the Hawaii, national or Oahu registers of historic places. At least 10 days prior to the hearing, notice of the date, time, place and purpose of such hearing shall be published in a newspaper of general circulation in the county. Not later than 14 days prior to the date of the hearing, the commission shall send such notice by certified mail to the owner or owners of property nominated for inclusion on the Oahu register. The notice shall state that the owner or owners may submit written comments, including an objection to the inclusion of the property on the Oahu register. Oral or written testimony concerning the significance of the proposed nomination to the Hawaii, national or Oahu registers shall be taken at the public hearing from any person.
- (e) With regard to nominations to the Hawaii or national registers, the commission shall forward its report to the mayor within 45 days after receiving notice from the state historic preservation officer. The report shall include findings on whether the property meets the criteria for nomination and its recommendation that the property be included or not included in the Hawaii or national registers, as the case may be. The mayor shall have 15 days after receiving the report of the commission to send this report and a recommendation to the state historic preservation officer. The mayor's recommendation may, but need not, concur with the recommendation contained in the commission's report.
- (f) With respect to nominations to the Oahu register, the commission shall decide whether to include the property on the register within a reasonable time after the close of the hearing on the matter. The commission's decision shall be consistent with the criteria it has adopted pursuant to Section 3-10.8.
- (g) The commission shall publish procedures for the assessment of potential national register nominations and for compliance with appropriate regulations.

(Added by Ord. 93-55)

**Sec. 3-10.10 Guidelines.**

The following documents shall be placed on file in the planning department and shall be used as a guide in matters pertaining to the review functions of the commission:

- (a) "Oahu revised general plan";
- (b) "State historic preservation plan" prepared by the State of Hawaii department of land and natural resources;
- (c) "Historic preservation program guidelines" prepared by the national park service;
- (d) "National Historic Preservation Act of 1966, as amended"; and
- (e) Other reports, plans, studies, issue papers and memos as may be adopted by the commission.

(Added by Ord. 93-55)

**Sec. 3-10.11 Accounting and funding.**

- (a) The commission shall recommend a yearly budget which shall be administered by the chief planning officer.
- (b) Subject to Chapter 1, Article 8, ROH 1990, and Section 13-113, Revised Charter of Honolulu 1973, the commission may receive public and private funds, and subject to council appropriation, spend such funds for the purpose of implementing this article. Funds received from outside sources shall not replace appropriated governmental sources.

(Added by Ord. 93-55)

**Article 11. Transportation Commission**

**Sections:**

- 3-11.1 Applicability to transportation commission.**
- 3-11.2 Definitions.**
- 3-11.3 Gender representation.**
- 3-11.4 Appointment to fill temporary vacancy.**

**Sec. 3-11.1 Applicability to transportation commission.**

This article applies to the transportation commission established under Revised Charter Section 6-1704.

(Added by Ord. 97-02)

**Sec. 3-11.2 Definitions.**

For the purpose of this article:

"Appointing authority" means:

- (1) The mayor with respect to members of the transportation commission who are appointed by the mayor, whether with or without council confirmation; and
- (2) The council with respect to members of the transportation commission who are appointed by the council.

"Commission" means the transportation commission referred to under Section 3-11.1.

(Added by Ord. 97-02)

**Sec. 3-11.3 Gender representation.**

An appointing authority shall make its appointments to the commission so that both genders are represented by the authority's appointed members at any point in time.

This section shall not be deemed violated during any period a gender is not represented among an authority's appointed members because of a vacancy.

(Added by Ord. 97-02)

**Sec. 3-11.4 Appointment to fill temporary vacancy.**

(a) When the commission finds that a member cannot serve temporarily because of illness, incapacity, or absence, the commission shall notify the appointing authority for that member. Then, the appointing authority may appoint a temporary replacement to serve until the earliest of the following:

- (1) The date on which the replaced member resumes service on the commission;
- (2) The date of expiration of the replaced member's term on the commission; or
- (3) The date which is 120 days after the effectiveness of the temporary replacement's appointment.

If the replaced member cannot resume service after the 120th day of subdivision (3), but has an unexpired term remaining, the appointing authority may appoint a different temporary replacement.

(b) For the purpose of this section only, council confirmation shall not be required of a temporary replacement for a member who was appointed by the mayor and confirmed by the council.

(Added by Ord. 97-02)

**Article 12. Sunshine Law Training**

**Sections:**

- 3-12.1 Definitions.**
- 3-12.2 Establishment of sunshine law training program.**
- 3-12.3 Requirement for participation in training program.**
- 3-12.4 Contents of program.**
- 3-12.5 Certification of participation.**

**Sec. 3-12.1 Definitions.**

For purposes of this article, the following terms shall have the following meanings:

“Administrator” means the city officer or employee designated by the mayor to administer this article.

“Board” means any agency, board, commission, authority, or committee of the executive branch of the city which is created by constitution, statute, charter, ordinance, rule, or executive order, to have supervision, control, jurisdiction or advisory power over specific matters and which is required to conduct meetings and to take official actions, and includes the neighborhood boards and the city’s community visioning teams.

“Date of taking office” means the following:

- (1) For a member of a board who is appointed by the mayor and confirmed by the council, the date of the council confirmation;
- (2) For a member of a board who is appointed by the mayor or a department head, without the necessity of council confirmation, the date of the appointment, even if the appointing document is received by the member on a later date;
- (3) For a member of a board who is appointed by the council, the council chair, a council committee or a council committee chair, the date of the appointment, even if the appointing document is received by the member on a later date;
- (4) For a member of a neighborhood board, the date on which the member is sworn into office; and
- (5) For a person who has attended a meeting of a community visioning team, the date on which the person attends his or her third meeting of the community visioning team for a particular geographical area.

“Meeting” means the convening of a board for which a quorum is required in order to make a decision or to deliberate toward a decision upon a matter over which the board has supervision, control, jurisdiction, or advisory power.

“Office of information practices” means the office of information practices of the State of Hawaii or any successor state agency designated by state law to administer the sunshine law.

“Sunshine law” means HRS Chapter 92, Part I.

(Added by Ord. 03-30)

**Sec. 3-12.2 Establishment of sunshine law training program.**

(a) The city administration shall establish a sunshine law training program for members of city boards no later than July 1, 2004.

(b) The program shall be under the supervision and control of an administrator designated by the mayor and shall be conducted by the office of information practices; provided that if the office of information practices cannot or will not conduct the program, it shall be conducted by:

- (1) The administrator or a city officer or employee designated by the administrator;
- (2) Persons with whom the administrator contracts to conduct the program; or
- (3) A combination of the foregoing.

(c) The administrator shall maintain records on all persons participating in the program. The records shall be open to the public and shall include, for each participant, his or her full name, the name of the applicable board, the participant’s affiliation with the board, and the date of participation.

(Added by Ord. 03-30)

**Sec. 3-12.3 Requirement for participation in training program.**

(a) A board member whose date of taking office is prior to July 1, 2004 and who continues to serve as a board member on July 1, 2004 shall participate in the sunshine law training program as soon as practicable, but no later than December 31, 2004.

- (b) Any board member whose date of taking office is after July 1, 2004 shall participate in the sunshine law training program within three months from the date of taking office.
- (c) A board member shall not be required to participate in the sunshine law training program again if, on the date of taking office, the board member had participated in the sunshine law training program within the two immediately preceding calendar years.
- (d) Notwithstanding any other provision of this section, a member of a community visioning team who has participated in the sunshine law training program need not participate again unless the member is appointed or elected to a board other than a community visioning team.
- (e) The following may participate in the sunshine law training program on a space available basis in the following order of priority:
  - (1) City officers or employees who are not members of a board, but who prepare agendas or minutes for, or otherwise provide service to a board;
  - (2) Persons who have been appointed, but not yet confirmed, as a member of a board; and
  - (3) Candidates for election to the neighborhood boards.

(Added by Ord. 03-30)

**Sec. 3-12.4 Contents of program.**

- (a) If the office of information practices conducts the sunshine law training program, the program content shall be as prescribed by that office. The office is encouraged to include, at a minimum, the information enumerated in subsection (b).
- (b) If the office of information practices does not conduct the program, the program shall, at a minimum, include information on the following:
  - (1) The purposes of the sunshine law;
  - (2) Agenda and notice requirements;
  - (3) Open meeting requirements, including the requirements on the acceptance of oral public testimony;
  - (4) Permitted and prohibited interactions among members of a board;
  - (5) Permissible grounds and required procedures for holding a meeting closed to the public;
  - (6) The taking of, and public availability requirements for, minutes of board meetings;
  - (7) Penalties for sunshine law violations; and
  - (8) Administration of the sunshine law.
 The program may include such additional information as the administrator and persons conducting the program deem appropriate.
- (c) Nothing in this article shall be construed to prohibit board members from participating in the sunshine law training program by viewing an online training video, provided that an online training video that is not created and maintained by the Office of Information Practices shall comply with subsection (b).

(Added by Ord. 03-30; Am. Ord. 12-5)

**Sec. 3-12.5 Certification of participation.**

- (a) A member of a board, other than a member of a community visioning team, shall provide the chair of the board with a certification of the member's participation in the sunshine law training program no later than:
  - (1) Thirty days after the date of participation; or
  - (2) Thirty days after date of taking office, whichever is later; provided that if the member is the chair of the board, the certification shall be provided to the board's vice-chair. The certification of participation may be mailed or hand-delivered, and, if mailed, shall be deemed to have been provided on the postmark date.
- (b) No member of a board shall provide false certification of participation in the sunshine law training program to the chair or vice-chair of the board.
- (c) A standard form certification shall be prescribed by the administrator and shall be provided to all participants in the sunshine law training program.
- (d) A board member who participates in the sunshine law training program by viewing an online training video shall sign a notice of self-certification, as prescribed by the administrator.

(Added by Ord. 03-30; Am. Ord. 12-5)

**Article 13. Registration of Lobbyists**

**Sections:**

- 3-13.1 Declaration of intent.**
- 3-13.2 Definitions.**
- 3-13.3 Registration and reporting.**
- 3-13.4 Registration and report forms to conform to law and truth.**
- 3-13.5 Certification of registration.**
- 3-13.6 Prohibition.**
- 3-13.7 Additional duties of the ethics commission.**
- 3-13.8 Penalties.**
- 3-13.9 Severability.**

**Sec. 3-13.1 Declaration of intent.**

The council declares that the operation of responsible democratic government requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to individual members of the

council, to committees of the council, and to officers of the executive branch their opinions on pending legislation and rules involved in the city's policy making process. However, the preservation and maintenance of the integrity of the policy making process require the identification in certain instances of persons and groups who engage in efforts to persuade members of the city council or officers of the executive branch to take specific action. It is the purpose of this article to require registration of lobbyists in order to make available to the council, the executive branch, and the public information relating to the activities of such persons and groups. (Added by Ord. 05-033)

**Sec. 3-13.2 Definitions.**

As used in this article, unless the context requires otherwise:

"Agency" means any "agency" as defined in Section 13-101 of the Revised Charter.

"Contribution" means 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.

"Lobbying" means certain activities of a person who is included in the definition of a "lobbyist" as defined in this section and not specifically excluded under Section 3-13.3(e). "Lobbying" shall be deemed to include the representation, by any person, whether or not compensated, of an association, corporation or organization that accepts membership dues or contributions with the understanding that a portion of the funds so received will be used to influence the policy making process of the City and County of Honolulu.

"Lobbyist" means any person who engages oneself for pay or other consideration for the purpose of influencing, directly or indirectly, and whether by such person or through any agent or employee or other person in any manner whatsoever, the policy making process of the City and County of Honolulu. A person who accepts membership dues or contributions made, or a fee or salary paid, with the understanding that the person accepting the same intends to devote a portion of the funds contributed or the time for which the salary is paid to lobbying activities shall be deemed to have "engaged oneself" to conduct such activities.

"Officer or employee of the City and County of Honolulu" means any "officer" or "employee" as defined in Section 13-101 of the Revised Charter.

"Person" means an individual, partnership, committee, association, corporation, and any other organization or group of individuals.

"The policy making process" means any action taken by an officer or employee of the City and County of Honolulu with respect to any bill, resolution or other measure in the city council, or with respect to any rule, regulation, standard, rate or other regulatory enactment of any city agency.

(Added by Ord. 05-033)

**Sec. 3-13.3 Registration and reporting.**

- (a) Each lobbyist shall, not later than five days after engaging himself or herself to conduct lobbying activities or receiving contributions, membership dues or a fee or salary as set forth in Section 3-13.2, file a registration form with the ethics commission.
- (b) Such registration form shall be developed by the ethics commission and shall include the registrant's full name and address; place of business; the full name and complete address of each person, whether or not an employee, who will lobby on behalf of the registrant; the full name of each person by whom the registrant is retained or employed or on whose behalf the registrant lobbies; duration of such person's employment; and a description of the matters on which the registrant expects to lobby. If the registrant lobbies or purports to lobby on behalf of members, such registration form shall include a statement of the number of members, and a full and complete description of the methods by which the members develop and make decisions about positions on policy. In addition thereto, each registration form shall be accompanied by a written authorization from each person (as defined in Section 3-13.2) by whom the registrant is employed or authorized to lobby. In a situation where the "person" is other than a natural person, i.e., a corporation, association, partnership or any organization consisting of groups of individuals, written authorization shall be executed by the president or an officer delegated such power by the president or the organization's board of directors.
- (c) Each lobbyist shall file with the ethics commission an annual report concerning the lobbyist's activities during the preceding calendar year ending December 31st by January 10th of each year, or, if the aforesaid date falls on a Saturday, Sunday or holiday, the next business day, as long as such lobbyist continues to engage in the activity described in Section 3-13.2. The annual report form shall be developed by the ethics commission and shall include, in addition to an up-to-date statement of the information required to be supplied in the registration form, such information for the preceding calendar year concerning (1) contributions, membership fees and other receipts relating to lobbying activities of the lobbyist, (2) amounts expended for lobbying by the lobbyist, and (3) each decision of the policy making process the reporting lobbyist sought to influence, as the ethics commission deems necessary to effectuate the purposes of this article.
- (d) Each lobbyist shall file a supplementary registration form with the ethics commission no later than 10 days after any change in the information supplied in the lobbyist's last registration form under subsection (b). Such supplementary registration form shall include a complete description of the information that has changed.
- (e) The registration and reporting requirements set forth herein shall not apply to:
  - (1) Any person who merely appears at a public hearing before the council, its committees or city agencies to express such person's opinion on pending legislation and/or rules and regulations involved in the city's policy making process;
  - (2) Any federal, state or county official or employee acting in such person's official capacity;
  - (3) Any elected public official acting in such person's official capacity;
  - (4) Any newspaper or other regularly published periodical, radio or television station (including any individual who owns, publishes or is employed by a newspaper or periodical or radio or television station) which in the ordinary course of business publishes news items, editorials or other comments, or paid advertisements, which directly or indirectly urge the taking of legislative or executive action, if the newspaper, periodical, radio or television station or individual engages in no further or other activities in connection with influencing decisions in the policy making process of the City and County of Honolulu;

- (5) Any person representing a bona fide church solely for the purpose of protecting the public right to practice the doctrines of the church;
- (6) Any unpaid volunteer representing a nonprofit organization, association or corporation; provided, that the organization, association or corporation:
  - (A) Is registered in accordance with the provisions of this section, and
  - (B) Files a written authorization with the ethics commission specifically designating such person to represent it; and such persons may engage in the activities described in this subsection without being holders of a certificate of registration.

(Added by Ord. 05-033)

**Sec. 3-13.4 Registration and report forms to conform to law and truth.**

Each registration and report form required to be filed under this article shall conform to law and truth and shall be signed and certified under oath as true and correct by the registrant, or, if the registrant is a person other than an individual, by an appropriate officer of such registrant. (Added by Ord. 05-033)

**Sec. 3-13.5 Certificate of registration.**

- (a) Within 10 working days after receipt of a registration form completed as provided in Section 3-13.3(b) and certified under oath as true and correct as provided in Section 3-13.4, the ethics commission shall either issue a certificate of registration to the registrant or notify the registrant that the form lacks relevant information or is improperly filled out, and no certificate of registration will be issued unless the omission is rectified or the form properly filled out.
- (b) Within 10 working days after receipt of the annual report form prescribed by Section 3-13.3(c), the ethics commission shall renew the registrant's certificate of registration or shall, upon notice to the registrant, suspend the certificate until such time as the registrant's annual report form has been brought into compliance with the requirements of this article.
- (c) The initial certificate and any renewed certificate shall remain in force until 10 working days following the next succeeding annual reporting date as set forth in Section 3-13.3(c), except that a certificate may be suspended or revoked as set forth in subsections (d) and (e).
- (d) If, either prior or subsequent to the issuance or renewal of a certificate of registration, the ethics commission obtains information leading it to believe that the registration or report form under consideration or on which issuance or renewal of a certificate has been based contains a material misstatement of fact, the ethics commission, after notice and a hearing, may suspend or revoke, for a period of up to one year following hearing on the misstatement, any effective certificate and may decline to issue or renew a certificate for a period of up to one year following the hearing. In exercising its discretion with respect to suspending or revoking or declining to issue or renew certificates of registration, the ethics commission shall grant a hearing to the aggrieved registrant at which it shall consider the nature of the material misstatement of fact, whether it was made intentionally or inadvertently, and any other circumstances surrounding the making of the material misstatement of fact.
- (e) In the event that, subsequent to filing of the registration form and issuance of the certificate, the ethics commission obtains information leading it to believe that a change in the information set forth in the registration form occurred and was not reflected in a supplementary registration form filed as required by Section 3-13.3(d), the ethics commission may, upon notice to the registrant, suspend the certificate of registration until a supplementary report containing the appropriate information is on file.

(Added by Ord. 05-033)

**Sec. 3-13.6 Prohibition.**

No person who is not the holder of a current certificate of registration issued by the ethics commission under this article shall engage in lobbying activities. (Added by Ord. 05-033)

**Sec. 3-13.7 Additional duties of the ethics commission.**

In addition to other duties prescribed by law, it shall be the duty of the ethics commission:

- (a) To prescribe registration and report forms required to be filed under this article, and to furnish and make available such forms to city agencies affected by, and persons required to register and report under, this article;
- (b) To accept and file any information voluntarily supplied that exceeds the requirements of this article;
- (c) To make registration and report forms filed with it available for public inspection and copying during regular office hours; a reasonable charge for reproducing copies may be assessed for the reimbursement of costs thereof;
- (d) To preserve such registration and report forms for a period of five years from the date of receipt;
- (e) To report suspected violations of law to the appropriate law enforcement authorities;
- (f) To establish procedures for the orderly processing of lobbyist registration; and
- (g) To adopt rules, if needed, in accordance with HRS Chapter 91, for the implementation, administration and enforcement of this article.

(Added by Ord. 05-033)

**Sec. 3-13.8 Penalties.**

Except as otherwise provided in this article, the ethics commission may suspend or revoke the certificate of registration of a lobbyist who has been found to have violated any provision of this article. No certificate shall be suspended or revoked except after a notice has been issued to the violator and a hearing held. The suspension or revocation shall not exceed one year from the date of the hearing. (Added by Ord. 05-033)

**Sec. 3-13.9 Severability.**

If any provision of this article, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of this article and the application of such provisions to other persons and circumstances shall not be affected thereby.

(Added by Ord. 05-033)

## Article 14. Ethics Board of Appeals

### Sections:

- 3-14.1 Establishment of ethics board of appeals.**
- 3-14.2 Restrictions on conduct.**
- 3-14.3 Appeals to the board.**

#### **Sec. 3-14.1 Establishment of ethics board of appeals.**

There shall be an ethics board of appeals that shall consist of five members. The ethics board of appeals shall be governed by the provisions of Section 13-103 of the charter and the applicable provisions of HRS Chapter 91. (Added by Ord. 07-43)

#### **Sec. 3-14.2 Restrictions on conduct.**

- (a) Except for exercising the right to vote or making a campaign contribution to a candidate for elective public office, no member of the ethics board of appeals shall support, advocate or aid in, or manage, the election or defeat of any candidate for public office. No member of the ethics board of appeals shall be a candidate for any elective public office nor engage in campaigning for such office.
- (b) Any member of the ethics board of appeals who violates the provisions of this section shall be removed by the mayor forthwith, since such person serves at the pleasure of the mayor.

(Added by Ord. 07-43)

#### **Sec. 3-14.3 Appeals to the board.**

Any person aggrieved by a civil fine imposed by the ethics commission may appeal the civil fine to the ethics board of appeals within 30 days of the mailing or service of the decision by the ethics commission. (Added by Ord. 07-43)

## Article 15. Periodic Review of Boards and Commissions

### Sections:

- 3-15.1 Application.**
- 3-15.2 Periodic review required.**
- 3-15.3 Schedule of review.**
- 3-15.4 Reports by board or commission.**
- 3-15.5 Action by the council.**
- 3-15.6 Establishment of additional boards or commissions.**

#### **Sec. 3-15.1 Application.**

- (a) This article applies to all city boards and commissions established by charter or by ordinance, except those specified in subsection (b).
- (b) This article does not apply to:
  - (1) The board of water supply;
  - (2) The board of directors of the Honolulu Authority for Rapid Transportation;
  - (3) Boards or commissions mandated or established pursuant to federal or state law; and
  - (4) Periodic commissions, including reapportionment commissions and charter commissions.

(Added by Ord. 17-44)

#### **Sec. 3-15.2 Periodic review required.**

The Council shall review each board or commission in accordance with the schedule established by Section 3-15.3 to determine whether the charter provisions or ordinances establishing the board or commission should be retained, amended, or repealed.

(Added by Ord. 17-44)

#### **Sec. 3-15.3 Schedule of review.**

The Council shall review each board or commission in accordance with the following schedule:

- (a) 2018, and every five years thereafter:
  - (1) Board of Parks and Recreation;
  - (2) Building Board of Appeals;
  - (3) Neighborhood Commission; and
  - (4) Citizens Advisory Commission on Civil Defense.
- (b) 2019, and every five years thereafter:
  - (1) Child Care Advisory Board;
  - (2) Oahu Committee on Children and Youth;
  - (3) Commission on Culture and the Arts; and
  - (4) Ethics Board of Appeals.
- (c) 2020, and every five years thereafter:
  - (1) Fire Commission;
  - (2) Grants in Aid Advisory Commission; and
  - (3) Oahu Historic Preservation Commission.

- (d) 2021, and every five years thereafter:
  - (1) Planning Commission;
  - (2) Real Property Tax Boards of Review I, II, and III; and
  - (3) Salary Commission.
- (e) 2022, and every five years thereafter:
  - (1) Clean Water and Natural Lands Advisory Commission;
  - (2) Rate Commission; and
  - (3) Zoning Board of Appeals.
- (f) Boards or commissions established after the effective date of this article shall be reviewed in accordance with Section 3-15.6.

(Added by Ord. 17-44)

**Sec. 3-15.4 Reports by board or commission.**

- (a) No later than January 31 of each calendar year, each board or commission scheduled for review during that year shall submit to the council a report containing the following information:
  - (1) A statement of the purpose for which the board or commission was created;
  - (2) A summary of the accomplishments of the board or commission during the preceding five-year period;
  - (3) Factors that aided or inhibited the achievement of the accomplishments, including, but not limited to, the composition and purpose of the board or commission and staff support;
  - (4) A statement of the measures implemented by the board or commission to enhance transparency in its operations;
  - (5) A statement of the measures implemented by the board or commission to ensure responsiveness to inquiries and comments from the mayor, the council, and the public;
  - (6) The annual costs of operation of the board or commission for each year of the preceding five-year period;
  - (7) A statement of whether the charter or ordinance provisions establishing the board or commission should be retained without change, amended, or repealed; and
  - (8) If applicable, suggested modifications and revisions to membership number and qualifications; organization; purpose; or powers, duties, and functions to better enable the board or commission to serve its purpose, including justification and suggested amendatory language.
- (b) The agency to which the board or commission is administratively attached, if any, or the council, in the case of the salary commission, shall assist the board or commission in the preparation of the report required by this section.

(Added by Ord. 17-44)

**Sec. 3-15.5 Action by the council.**

- (a) Upon receipt by the council of a report required by Section 3-15.4, the presiding officer of the council shall refer the report to an appropriate standing committee of the council, which shall consider the report, evaluate the board or commission, and make recommendations to the council by committee report. If the committee recommends amendments to or repeal of the charter provisions or ordinances establishing the board or commission, the committee shall submit as part of its recommendations a proposed resolution or bill to implement its recommendations. The committee shall submit its recommendations no later than May 31 of that year.
- (b) The council shall consider the report and any recommendations of the standing committee and, no later than August 31 of that year, shall determine whether to retain the board or commission in its current form, propose amendments to the charter or ordinance provisions establishing the board or commission, or propose abolition of the board or commission. The council shall make its determination by adoption of the committee report, and shall hold a public hearing on the matter.
- (c) If the council's determination pursuant to subsection (b) is to propose amendments to or repeal of the board or commission's establishing provisions, the presiding officer of the council shall introduce the appropriate resolution or bill for consideration by the council; provided, that if the council's determination requires a charter amendment that would be presented to the electorate at the same general election in which a charter commission will present proposals to the electorate, the resolution shall submit the proposal to the charter commission rather than initiate the amendment or repeal.

(Added by Ord. 17-44)

**Sec. 3-15.6 Establishment of additional boards or commissions.**

Unless otherwise provided by its establishing provisions or by amendment to this article, any board or commission established by charter or by ordinance after the effective date of this article shall be subject to this article and shall be reviewed hereunder commencing in the calendar year five years after the calendar year of its establishment, and every five years thereafter.

(Added by Ord. 17-44)