

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

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

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

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

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

ARTICLE VII

EXECUTIVE BRANCH—POLICE DEPARTMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 7-107. Suspension; Removal—

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

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

Section 7-108. Appeals—

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

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

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

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

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

ARTICLE VIII

BOARD OF WATER SUPPLY

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

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

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

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

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

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

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

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

3. The department shall:

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

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

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

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

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

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

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

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

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

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

(b) Fix the salary of the manager.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Appoint and remove members of the staff.

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

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

(g) Prepare payrolls and pension rolls.

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

(i) Prepare annual operating and capital budgets.

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

(k) Recommend regulations for adoption by the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 8-118. Appeals—

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

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

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

ARTICLE IX

FINANCIAL ADMINISTRATION

Act 42, SLH 1959, amending §149-121, RLH 1955, relating to budget estimates is inconsistent and is therefore superseded. Op 59-184.
Note: §9-205 is non-existent.

**CHAPTER 1
OPERATING BUDGET**

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

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

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

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

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

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

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

Section 9-104. Consideration and Adoption by Council—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 2 CAPITAL PROGRAM AND CAPITAL BUDGET

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

1. The capital program and capital budget shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Section 9-205 is non-existent.)

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

CHAPTER 3

FUND ADMINISTRATION

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

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

CHAPTER 4

PROCUREMENT AND DISPOSITION OF PROPERTY

Section 9-401. Centralized Purchasing—

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

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

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

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

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

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

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

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

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

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

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

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

(a) Emergency purchases which might be required.

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

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

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

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

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

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

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

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

Section 9-405. Contracts—

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

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

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

ARTICLE X

SPECIAL ASSESSMENT IMPROVEMENTS

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

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

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

**ARTICLE XI
CODE OF ETHICS**

Section 11-101. Standards of Conduct—

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

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

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

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

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

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

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

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

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

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

**ARTICLE XII
GENERAL PROVISIONS**

Section 12-101. Definitions—

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