

THE MAYOR AND EXECUTIVE AGENCIES

Chapter 2

THE MAYOR AND EXECUTIVE AGENCIES—ADDITIONAL POWERS, DUTIES AND FUNCTIONS

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Article 1. Mayor*

Sections:

- 2-1.1 **Election and term of office.**
- 2-1.2 **Annual energy evaluation.**

Sec. 2-1.1 Election and term of office.

Except for the filling of a vacancy in the office of the mayor as provided by Section 5-106 of the revised charter, the electors of the city shall elect a mayor whose term of office shall be four years beginning at 12 o'clock meridian on the second day of January following the mayor's election.

(Sec. 2-1.1, R.O. 1978 (1983 Ed.))

Sec. 2-1.2 Annual energy evaluation.

Within 60 days following the end of each fiscal year, beginning with the fiscal year ending June 30, 2009, and each year thereafter, the mayor shall submit to the council a written report detailing the city's:

- (1) Electricity, gasoline, diesel, and biodiesel consumption and costs during the previous fiscal year; and
- (2) Progress in implementing energy conservation policies, programs, and projects.

(Added by Ord. 16-29)

Article 2. Officers**

Sections:

- 2-2.1 **Additional duties.**
- 2-2.2 **Inaugurate sound practices.**
- 2-2.3 **Records.**
- 2-2.4 **Acts by subordinate officer.**
- 2-2.5 **Acting agency head.**

Sec. 2-2.1 Additional duties.

Each officer shall perform all duties required of such person's office by state law, the charter, and ordinances of the city and such other duties not in conflict therewith as may be required by the mayor.

(Sec. 2-2.1, R.O. 1978 (1983 Ed.))

Sec. 2-2.2 Inaugurate sound practices.

The heads of all executive agencies shall keep informed as to the latest practices in their particular field and shall inaugurate, with the approval of the mayor and managing director, such new practices as appear to be of benefit and service to the public.

(Sec. 2-2.2, R.O. 1978 (1983 Ed.))

***Editor's Note:** In general, Chap. 1, Art. V, Revised Charter.

****Editor's Note:** Officers defined, § 13-101.4, Revised Charter; § 1-4.1, ROH 1990.
Permitting coffee break, HRS § 80-2.
Limitation on salary of first deputy or assistant, HRS § 46-24.
Civil Service exemptions, § 6-1103, Revised Charter.

Sec. 2-2.3 Records.*

The heads of all agencies shall establish and maintain a system of filing and indexing records and reports in sufficient detail to furnish all information necessary for proper control and audit of agency activities and to form a basis for the periodic reports to the mayor.

(Sec. 2-2.3, R.O. 1978 (1983 Ed.))

Sec. 2-2.4 Acts by subordinate officer.

When any provision herein requires an act to be done by an agency head, the agency head may direct a subordinate to perform said act.

(Sec. 2-2.4, R.O. 1978 (1983 Ed.))

Sec. 2-2.5 Acting agency head.

- (a) **Absence Due to Illness, Incapacity or Temporary Absence from the City—When Vacancy Occurs.** An agency head may appoint with the approval of the mayor, an officer or employee in such person's department, to serve as acting agency head during the agency head's illness, incapacity or temporary absence from the city. As acting head such person shall execute all the powers and duties of the agency head. Vacancies resulting from death, resignation, dismissal or expiration of term of office of an agency head shall be filled in accordance with applicable provisions pertaining to that agency contained in the Revised Charter of the City and County of Honolulu. Notwithstanding any other provision to the contrary, any incumbent corporation counsel and prosecuting attorney whose term of office has expired coterminously with that of the appointing authority shall not serve in an acting or interim agency head capacity unless and until their appointments have been approved by the city council. Any person whose appointment fails to receive council's confirmation shall not be eligible for another appointment to the same office during the term of the appointing authority.
- (b) **Additional Compensation for Temporary Absence of Agency Head.** Any person designated as acting agency head pursuant to subsection (a) of this section shall not be entitled to the compensation received by the agency head; provided, that if an agency head's illness, incapacity or temporary absence from the city exceeds 10 continuous working days involving a single occurrence, such acting agency head shall be entitled to compensation paid to the agency head until the agency head returns; provided further, that such additional compensation shall be paid to the acting agency head retroactive to the termination of the 10 day waiting period.
- (c) **Additional Compensation When Vacancy Occurs.** Any person designated as acting agency head pursuant to subsection (a) of this section shall not be entitled to the compensation received by the agency head; provided, that if such vacancy exceeds 10 continuous working days involving a single occurrence, such acting agency head shall be entitled to compensation paid to the agency head until the position is filled; provided further, that such additional compensation shall be paid to the acting agency head retroactive to the termination of the 10 day waiting period.

(Sec. 2-2.5, R.O. 1978 (1983 Ed.))

Article 3. Corporation Counsel****Sections:**

2-3.1 Additional powers, duties and functions.

2-3.2 Prohibited acts.

***Editor's Note:** Open to public inspection, § 13-105, Revised Charter; superseding HRS §§ 92-1 to 92-6.

****Editor's Note:**

In general, Chap. 2, Art. V, Revised Charter.

Private Practice Prohibited, HRS § 78-6; § 11-102.5, Revised Charter.

Special Counsel, § 5-204, Revised Charter.

Fees for services prohibited, § 11-102.4, Revised Charter.

Legal counsel for board of water supply, § 7-116, Revised Charter.

Defense of liquor commission employees, HRS § 281-103.

Uniform Reciprocal Enforcement of Support Act between counties, HRS § 576-4.

Pay plan and organization, Chap. 5, Art. 2, ROH 1990.

Pay plan for legal assistants, Chap. 5, Art. 2, ROH 1990.

2-3.3 Penalties.**2-3.4 Procedure governing council approval for the settlement of claims against the city.****Sec. 2-3.1 Additional powers, duties and functions.**

The corporation counsel shall:

- (a) Prepare Ordinances. Prepare bills for enactment into ordinances or amendments of ordinances when so requested by the council or any committee or member thereof or the mayor or any city officer.
- (b) Council Meetings. Attend all council meetings in their entirety for the purpose of giving the council any legal advice requested by its members.
- (c) Prepare Legal Instruments. Prepare for execution and approve, as to form and legality, all contracts and instruments to which the city is a party and also approve, as to form and legality, all bonds required to be submitted to the city.
- (d) Settlement of Claims.
 - (1) By Corporation Counsel. Have the power to adjust, settle, compromise or submit to arbitration, any action, causes of action, accounts, debts, claims, demands, disputes and matters in favor of or against the city or in which the city is concerned as debtor or creditor, now existing or which may hereafter arise, not involving or requiring payment in excess of \$5,000.00; provided the money to settle claims generally has been appropriated and is available therefor; and provided further, that a quarterly report of all settlements shall be filed with the council within 15 days after the end of each quarter.
 - (2) Outstanding Claims For or Debts Owed to the City. The corporation counsel shall determine whether or not any claim for the city or any debt owed to the city not in excess of \$1,000.00 is collectible. If the corporation counsel determines that any claim for the city or any debt owed to the city is not collectible, the corporation counsel is authorized to advise the director of budget and fiscal services that any claim for the city or any debt owed to the city shall be stricken from the director of budget and fiscal services' records and such claim for the city or such debt owed to the city is extinguished.
 - (3) Private Claims Adjustment Service. Any private claims adjustment service which has been awarded a contract to provide coverage for liability by established bid procedures and where the deductible amount of any insurance is to be paid out of city funds, has the power to adjust, settle, compromise or submit to arbitration, any action, causes of action, accounts, debts, claims, demands, disputes, and matters against the city for any injury or death to a person or damage to property; provided that before such service can commit the payment of any claim in excess of \$15,000.00, it shall be first presented to the corporation counsel for approval.
- (e) Make Reports.
 - (1) Report of Decision. Report the outcome of any litigation in which the city has an interest to the mayor and council.
 - (2) Annual Report of Pending Litigation. Make an annual report to the mayor and council, as of the 15th day of January, of all pending litigation in which the city has an interest, and the status thereof.
- (f) Workers' Compensation. Investigate all cases in which workers' compensation is involved and appear on behalf of the city before the state workers' compensation board.
- (g) Keep Records.
 - (1) Suits. Keep a complete record of all suits in which the city had or has an interest, giving the names of the parties, the court where brought, the nature of the action, the disposition of the case, or its status if pending.
 - (2) Opinions and Titles. Keep a complete record of all written opinions furnished by the corporation counsel.
- (h) Settlement of Land Acquisition. Have the power to adjust, compromise, settle or submit to arbitration, any land acquisition requests referred to this office by other city agencies or eminent domain actions, causes of eminent domain actions in favor of or against the city or in which the city is concerned as purchaser, seller, condemnor or condemnee, now pending or which may hereafter arise, not involving or requiring payment in excess of \$2,500.00, provided the money to settle any specific land acquisition or eminent domain action generally has been appropriated and is available therefor; and provided further, that a quarterly report of all settlements shall be filed with the council within 15 days after the end of each quarter.

(Sec. 2-3.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 16-29)

Sec. 2-3.2 Prohibited acts.

The corporation counsel shall not:

- (a) Initiate, engage or participate in any legal action or proceedings in which the city, its officials and/or employees are not directly involved in or named as a party to a contemplated or ongoing legal proceeding.
- (b) Other than situations where corporation counsel is expressly authorized by federal or state statutes or city laws, bring action against a private person as defined in Section 1-4.1 without first obtaining the consent and approval of the city council which shall be manifested by an adopted council resolution.

(Sec. 2-3.2, R.O. 1978 (1983 Ed.); Am. Ord. 96-58)

Sec. 2-3.3 Penalties.

Penalty for violation of any provision of this article shall be a fine not to exceed \$1,000.00 or one year's imprisonment or both. Prosecution in such cases shall be as provided by law for the prosecution of misdemeanors. (Sec. 2-3.3, R.O. 1978 (1983 Ed.))

Sec. 2-3.4 Procedure governing council approval for the settlement of claims against the city.

- (a) Except as otherwise provided in Section 2-3.1(d), no claim shall be adjusted, settled, or compromised without the prior approval of the council.
- (b) The council shall determine and specify from time to time, by resolution, claims for which all written offers of settlement are to be transmitted to the council by legal counsel. Upon adoption of such a resolution, legal counsel assigned to the claim specified in the council resolution shall transmit any written offer of settlement to the council promptly, but no later than three working days from the receipt of the offer, or prior to the expiration date of the offer, if any, whichever occurs first.

Together with the offer, legal counsel shall transmit to the council: (i) the recommendation of the agency, officer or employee against whom the claim is made; and (ii) the recommendation of the legal counsel, as to whether to accept, reject, or make a counter-offer to the offer. If, due to the shortness of time within which to respond to an offer of settlement, legal counsel is unable to obtain a recommendation from the agency, officer or employee against whom the claim is made, legal counsel need include only legal counsel's recommendation in the transmittal. However, legal counsel shall obtain the recommendation of the affected agency, officer or employee as soon as practicable, and submit the recommendation in writing to the council.

- (c) The council may, after deliberation in executive session, accept or reject the offer, or propose a counter-offer. If the council decides to accept the offer of settlement, the council shall do so by adopting a committee report or a resolution specifying the terms of settlement and expressing its approval of the terms.

The decision of the council to accept a settlement offer shall be binding on the city and on legal counsel. In the event the council rejects the offer or proposes a counter-offer, it shall so inform legal counsel in executive session. Legal counsel shall transmit the council's acceptance of the offer of settlement or the council's proposed counter-offer to the claimant promptly and without delay.

- (d) Nothing in this section shall preclude the corporation counsel from establishing procedures consistent with the provisions of the Code of Professional Responsibility governing all attorneys licensed to practice law in the State of Hawaii, and the charter, for the transmittal of settlement offers to the council involving claims not specified by the council pursuant to subsection (b). Further, nothing in this section shall preclude legal counsel from recommending to the council on legal counsel's own initiative, or at the request of the affected agency, officer or employee against whom a claim is made, offers to adjust, settle, or compromise any claim, or to recommend to the council that the city make an offer of settlement or judgment in any case in which the city, is a party.

- (e) Definitions. For the purposes of this section:

"Charter" means the Revised Charter of the City and County of Honolulu 1973, as amended.

"City" means the City and County of Honolulu, its agencies, officers and employees.

"Claim" includes any claim, demand, debt, dispute or other matter in favor of or against the city, its agencies, officers or employees, initiated, brought or made by any person as defined in Section 1-4.1, or any federal or state agency. The term includes claims for injunctive, declaratory and extraordinary relief.

"Legal counsel" includes the corporation counsel, deputies corporation counsel, special deputies and special counsel representing the city in any claim.

"Special counsel" means the private attorney or law firm retained by the city pursuant to Revised Charter, Section 5-204.3, to represent the city.

"Special deputies" means the private attorney or law firm appointed by the corporation counsel with the approval of the council pursuant to Revised Charter, Section 5-204.1, to represent the city.

- (f) Exception. The provisions of this section shall not apply to claims arising between the executive branch of city government and the council involving court litigation for which corporation counsel, or if corporation counsel has been disqualified, special counsel, has been retained to represent the agencies, officers or employees of the executive branch and either the attorneys in the office of council services or special counsel has been retained by council to represent the council.

(Added by Ord. 93-78)

Article 4. Department of Budget and Fiscal Services *

Sections:

2-4.1 Refund of license fees authorized.

2-4.2 Additional powers, duties, and functions of the director of budget and fiscal services.

Sec. 2-4.1 Refund of license fees authorized.

- (a) Legislative Findings and Declaration of Intent. The council finds that:
Whenever a business license fee has been paid improperly or paid under circumstances when it need not have been paid or otherwise paid in excess of the amount required by law and such payments have been either voluntary, involuntary, the result of a mistake of law or of fact or any combination thereof and the payor has derived no benefit from the payment of such fee, there exists a moral obligation on the part of the city to refund said payment or such amount as represents the illegal excess collected over that required by law.
- (b) Director of Budget and Fiscal Services Authorized to Refund—When. Upon the written request of the payor received within six months from the date of the erroneous payment, the director may refund license fees or so much thereof as represents the illegal excess collected over the amount required to be collected by law or regulation when paid under the following conditions; when such fees need not have been paid but were in fact paid voluntarily or involuntarily, under a mistake as to the applicable law or mistake of fact provided that the payor has not derived any benefit from the payment of the license fee. If such a benefit has been derived therefrom as in the case of a payment made pursuant to a law or regulation subsequently declared by a court of competent jurisdiction to be invalid, only the amount of the fee, which when prorated over the term of the license represents the balance of the term for which the license fee was paid subsequent to the decision invalidating the law or regulation under which payment was made, shall be refunded; provided further, that notwithstanding the receipt of any benefits by the payor, payments made involuntarily as defined in subsection (d) shall be refunded in their entirety.
- (c) Limitations. The authority granted the director in subsection (b) shall not extend to the payment of any other claims based on an asserted moral obligation.
- (d) Involuntary Payment. For the purposes of this article, involuntary payments shall be deemed to be those payments made under protest to prevent interference with or the closing of the payor's business or the arrest of such person. Similarly, payment made under the threat of force or procured by fraud shall be deemed involuntary.

(Sec. 2-4.1, R.O. 1978 (1983 Ed.); Am. Ord. 16-29)

***Editor's Note:** In general, Chap. 2, Art. VI, Revised Charter.

Sec. 2-4.2 Additional powers, duties, and functions of the director of budget and fiscal services.

- (a) Collection. The director shall be the chief accounting officer of the city and shall:
- (1) Collect and receive moneys due to or receivable by the city and issue receipts therefor or authorize other executive agencies to do so under conditions prescribed by the director; and
 - (2) Have the responsibility of writing off uncollectible debts or accounts of \$1,000.00 or less for moneys due the city, upon recommendation of or with the concurrence of the corporation counsel.
- (b) Payment—Check or Electronic Means.
- (1) In all instances where money due the city is paid by check or electronic means, and the payment subsequently is dishonored by a bank or other financial institution when presented for collection, a service fee shall be assessed against the payor. The service fee shall be established and may be amended by the director. The service fee shall be incorporated into the rules of the department of budget and fiscal services and shall not exceed the reasonable costs of the city relating to the processing and collection of dishonored checks, or electronic payments.
 - (2) Personal checks shall not be accepted by the city in payment of moneys due the city of less than one dollar.
 - (3) The director may accept payments of city taxes and other amounts owed to the city made by electronic means, which in the director's discretion are determined acceptable to the city.
If any payment by electronic means tendered for payment of any taxes or other amounts owed to the city is not paid by the bank, credit card company, or other financial institution, the person for whom such payment was tendered shall remain liable for the payment of the taxes or other amounts owed to the city, including the service fee established pursuant to subdivision (1), the same as if such payment had not been tendered.
 - (4) The director may establish, where allowable, convenience and service fees for payments made by electronic means to be added to the amounts owed to the city. The convenience and service fees shall be adopted by rules of the department of budget and fiscal services and shall not exceed the reasonable costs of the city relating to the processing of the payments.
 - (5) For purposes of this subsection, payments made by "electronic means" include payments made by automated clearing house (ACH) transactions, fedwires, credit cards, charge cards, debit cards, stored value cards, and other electronic payment technology not yet developed.
- (c) Change Orders. The director shall report in writing to the council whenever:
- (1) The city approves change orders for a city-financed construction project where the change orders result in an increase in project costs, which in aggregate exceed one of the following amounts:
 - (A) Seven percent of the original construction contract award, for construction projects involving renovations to existing buildings, structures, or facilities; or
 - (B) Five percent of the original construction contract award, for construction projects involving new buildings, structures, or facilities.

The director's report to the council on the change orders shall include the amount of the original contract award, the amount appropriated for construction of the project, the amount of the appropriation for construction allocated for contingencies, the total number and total dollar amount of the change orders and the reason or reasons for the change orders. The director shall report to the council within 30 days of the approval of the change order or orders that result in the dollar amount of the change orders exceeding the limits set forth in paragraph (A) or (B), as the case may be. For the purposes of this subsection, a "contract award" means any separate award to a contractor for construction work to be done for a city-financed construction project, and a "city-financed construction project" means a project for which \$500,000.00 or more in city funds have been appropriated; provided that funds originally from the state or federal government shall not be counted towards the \$500,000.00 threshold.
 - (2) The actual completion date of a city-financed construction project, as defined in subdivision (1), occurs 90 days or more after its scheduled completion date, as set forth in the contract for the construction of the project. The director's report on the aforementioned projects shall include for each project the scheduled completion date, the actual completion date, the number of days that the project was overdue and the reason or reasons for the delay in completing the project. The director shall report to the council within 30 days of the completion of a project that was overdue by 90 days or more.

(d) Annual Review of Fees and Charges.

- (1) The director shall annually review all city fees and charges and recommend to the council whether to increase, decrease, or maintain the current amount of each fee and charge. Each recommendation shall be accompanied by a statement of the reason or reasons why the particular fee or charge should be increased, decreased, or maintained at the current level and the projected amount by which city revenues would increase or decrease as a result of the recommended increase or decrease in each fee or charge.
- (2) The director's written recommendations, along with the appropriate proposed ordinance, if any, shall be submitted to the council each year at the same time that the city administration submits the annual executive operating and capital budgets.
- (3) All changes in the city's fees and charges recommended by the director shall be reflected in the executive operating budget's projection of revenues for the upcoming fiscal year.

(Sec. 2-4.2, R.O. 1978 (1983 Ed.); Am. Ord. 91-27, 95-09, 96-17, 97-02, 97-14, 16-29)

Article 5. Risk Management

Sections:

- 2-5.1 General.**
- 2-5.2 Definitions.**
- 2-5.3 Purchase of insurance.**

Sec. 2-5.1 General.

The director of budget and fiscal services shall establish a risk management program to identify and control the city's exposure to liability. The program shall be administered by the department of budget and fiscal services. (Sec. 2-16.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 91-27, 97-02, 16-29)

Sec. 2-5.2 Definitions.

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

"Risk" means the potential for financial loss through occurrences, including but not limited to accidents, personal injury, tort claims, legal obligations and natural disasters.

"Risk management" means a management system to conserve the earning power and assets of the city by minimizing the financial effect of accidental losses.

(Sec. 2-16.2, R.O. 1978 (1987 Supp. to 1983 Ed.))

Sec. 2-5.3 Purchase of insurance.

The policies of insurance purchased pursuant to and in accordance with the director of budget and fiscal services' risk management program shall be procured from companies authorized to do business in the State of Hawaii and according to the applicable laws and ordinances on competitive bidding.

(Sec. 2-16.3, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 91-27, 97-02, 16-29)

Article 6. Department of Human Resources.*

Sections:

- 2-6.1 Director of human resources—Additional powers, duties and functions.**
- 2-6.2 Functions of the safety program administrator.**

Sec. 2-6.1 Director of human resources—Additional powers, duties and functions.

The director shall:

***Editor's Note:** In general, Chap. 3, Art. VI, Revised Charter. Art. 6 title was amended by Ord. 96-58, 16-29.

- (a) Prepare and recommend to the civil service commission reasonable regulations to carry out applicable provisions of the charter; and
 - (b) Examine all applicants for employment and all officers and employees of the city pursuant to any applicable ordinance, civil service laws, and rules and regulations then in effect.
- (Sec. 2-6.1, R.O. 1978 (1983 Ed.); Am. Ord. 96-58, 16-29)

Sec. 2-6.2 Functions of the safety program administrator.

The functions of the safety program administrator are assigned to the department of human resources.

(Sec. 2-6.2, R.O. 1978 (1983 Ed.); Am. Ord. 96-58, 16-29)

Article 7. Department of Information Technology*

Sections:

2-7.1 Qualifications.

Sec. 2-7.1 Qualifications.

The director of information technology shall have had:

- (a) A minimum of five years of experience in an electronic data processing position, including experience with third generation concepts and hardware to include teleprocessing;
- (b) At least three years' experience out of the five years' experience in an administrative and managerial capacity; and
- (c) At least one year of experience out of the three years of experience in a comprehensive management capacity for the development, implementation and operation of business applications on a large scale computer system.

(Sec. 2-7.1, R.O. 1978 (1983 Ed.); Am. Ord. 16-29)

Article 8. Department of Facility Maintenance**

Sections:

2-8.1 Divisions.

(2-8.2 Used oil recycling program. Repealed by Ord. 16-29)

2-8.2 Reserved.

2-8.3 Adopt-a-block graffiti and litter removal program.

2-8.4 Street lighting to be energy efficient.

Sec. 2-8.1 Divisions.

The department of facility maintenance shall be divided under the chief engineer into the following divisions:

- (a) Division of Automotive Equipment Service. The division of automotive equipment service, under the direction of a division chief, shall:
 - (1) Have charge of the municipal garage and be responsible for the acquisition, custody, repair, maintenance, and disposal of all automotive vehicles and equipment assigned to and used by all city departments except the police department, fire department, board of water supply, and the Honolulu Authority for Rapid Transportation, and except such stationary machinery as may more practicably be maintained by the division or department having control thereof.
 - (2) Furnish when needed all parts, accessories, gasoline, distillate, fuel oil, lubricants, and tires necessary for the repair of all such automobiles, equipment, trucks, cranes, graders, sweepers, eductors, mixers, tankers, trailers, large riding tractor mowers, and rollers.

***Editor's Note:** In general, Chap. 13, Art. VI, Revised Charter. Art. 7 title was amended by Ord. 16-29.

****Editor's Note:** In general, Chap. 4, Art. VI, Revised Charter. Art. 8 title was amended by Ord. 16-29.

- (3) Furnish or assign when needed for use by other city departments, on a rental basis, such vehicular equipment as may be available to it from time to time.
 - (4) Have charge of the municipal corporation yard or yards occupied by the division and any other place for the storing or housing of all such vehicular equipment belonging to the city.
 - (5) By proper methods monitor the use of all vehicular equipment belonging to or under the jurisdiction of the city and from time to time report all instances of accidents or apparent abuse of such equipment to the department or division head concerned and to the chief engineer and the mayor. For the purpose of this subdivision, vehicular equipment belonging to or under the jurisdiction of the department of parks and recreation shall be deemed as belonging to or under the jurisdiction of the city.
 - (6) Municipal Automobiles to Be Kept in Garage. All automobiles belonging to the city and under the jurisdiction of the division of automotive equipment service shall be kept at the municipal corporation yard when not in the actual service of the city, except such automobiles as the director and chief engineer may specifically authorize to be kept elsewhere.
 - (7) Repairs. All repairs upon any such automobile, equipment, truck, crane, grader, sweeper, eductor, mixer, tanker, trailer, large riding tractor mower, roller, or machinery belonging to the city shall be made at the municipal garage to the fullest extent that the facilities of the garage permit, except repairs made in an emergency. The municipal garage shall also make repairs upon and furnish gasoline, oils, parts and accessories for equipment coming under the jurisdiction and control of other departments, excepting only the board of water supply, police department, fire department, and the Honolulu Authority for Rapid Transportation, and it may, upon request, furnish such repairs, gasoline, oils, parts, and accessories for such excepted departments.
 - (8) Accounting Records. It shall be the duty of the division chief to keep a system of accounting records as shall be approved by the director of budget and fiscal services and the council so as to properly charge against the proper division, department, or fund the cost of the service rendered and facilities and equipment furnished by the division of automotive equipment service and said cost shall be so charged.
 - (9) Reports by Division Chief. The division chief shall make a full report to the chief engineer and the council not later than the 15th day of the month following the close of each quarter of all of the affairs of the division chief's division, including therein, among other things, work done and equipment and stock on hand, and equipment purchased and disposed of during such quarter. The report shall be made in such form and manner as shall be approved by the director of budget and fiscal services and the council.
 - (10) Fees or Rates Applicable to Automotive Equipment Charges. The fees or rates applicable to automotive equipment shall reflect the actual cost of services performed or contracted for, goods provided and overhead.
 - (11) Limitation. This subsection shall not be construed as authorizing the division of automotive equipment service to control the routing and direction of equipment while in use by another division or department. The powers, duties, and functions provided to the division of automotive equipment service by this subsection shall not apply to motor vehicles used for the city bus system or special transit service. For the purpose of this limitation, "city bus system" and "special transit service" mean the same as defined under Section 13-1.1.
- (b) Division of Road Maintenance. The division of road maintenance, under the supervision of a director, shall be responsible for the construction and maintenance of roads, streets, highways, footpaths, storm drain facilities, and bridges.
 - (c) Division of Public Building and Electrical Maintenance. The division shall:
 - (1) Repair, maintain, and renovate all:
 - (A) City buildings and appurtenant structures;
 - (B) Street, park, mall, outdoor, and other city lighting and electrical facilities; and
 - (C) Communication facilities under the jurisdiction of the department;
 - (2) Provide daily custodial and utility services for city buildings;
 - (3) Manage city employees' parking and motor pool services; and
 - (4) Manage security services for Honolulu Hale, Kapolei Hale, the Frank F. Fasi Municipal Building and other city facilities.
- (Sec. 2-8.1, R.O. 1978 (1983 Ed.); Am. Ord. 91-27, 93-31, 97-02, 16-29)

(Sec. 2-8.2 Used oil recycling program. Repealed by Ord. 16-29)**Sec. 2-8.2 Reserved.****Sec. 2-8.3 Adopt-a-block graffiti and litter removal program.**

(a) Establishment. The chief engineer shall establish an "Adopt-A-Block Graffiti and Litter Removal Program" which shall be administered by the department of facility maintenance. The chief engineer may adopt rules or policies and shall adopt forms necessary to implement this section.

(b) Definitions. For the purposes of this section:

"Adopter" means a person adopting a block or portion thereof under the program established pursuant to this section.

"Block" means one side of any street, the length of such side extending between two consecutive intersections; or, in the case of a dead-end street, one side of such dead-end street, the length of such side extending between the dead-end and the nearest intersection.

"Bus stop shelter or bench" means a shelter or bench owned by the city and located at an official or unofficial bus stop for the use of persons waiting for a city bus.

"Chief engineer" means the chief engineer of the department of facility maintenance.

"Curb" means the same as defined under Section 14-18.2.

"Department" means the department of facility maintenance.

"Graffiti" means any unauthorized drawing, inscription, figure, or mark of any type intentionally created by paint, ink, chalk, dye, or similar substances. "Graffiti" also means any unauthorized sticker, decal, or tape.

"Person" means individuals, corporations, firms, associations, societies, communities, and assemblies.

"Program" means the Adopt-A-Block Graffiti and Litter Removal Program established pursuant to this section.

"Public facility" means any city-owned light post, traffic control box or device, or sign.

"Sidewalk" means the same as defined under Section 14-18.2.

(c) Elements of Program. The program shall at a minimum include the following elements:

- (1) Interested persons may volunteer to remove or cover graffiti on walls, public facilities, and bus stop shelters and benches along a city block or blocks and remove litter from these facilities and public sidewalks and curbs along a city block or blocks specified by the persons, which block or blocks shall be deemed to be "adopted" by the persons for the purposes of this section. A portion of a block may be adopted, provided that the portion is a minimum of 200 feet in length.

The adopter shall enter into an agreement with the department:

(A) To adopt the block or portion thereof for a minimum of two years; and

(B) To perform the applicable of the following on the same day at least four times a year:

(i) To remove litter from the public sidewalks and curbs along the adopted block or portion;

(ii) To remove or cover graffiti on walls and public facilities along the adopted block or portion;

and

(iii) If there is a bus stop shelter or bench on the adopted block, to also remove or cover any graffiti on the shelter or bench.

- (2) The department shall provide the adopter with the supplies and materials necessary to remove or cover the graffiti and collect the litter, including but not limited to cleaning agents, paint, brushes, trash bags, and gloves, at no charge to the adopter. The paint provided by the department need not match the existing color of the wall. The department also shall provide instruction on proper removal, painting, and safety procedures. The adopter shall return any unused or reusable supplies and materials to the department after each graffiti and litter removal operation. The department shall be responsible for the prompt removal of all filled trash bags after each graffiti and litter removal operation. This subdivision shall not preclude the adopter from providing its own supplies and materials, provided that they are approved by the department, or from removing filled trash bags.
- (3) Walls not owned by the city shall not be subject to the program unless the adopter obtains the written consent thereto from the owner of the wall. The owner's consent shall be obtained on a form prescribed by the chief engineer and shall include a provision holding the city harmless with respect to claims for injury

or damage by the owner or the owner's lessees, agents, employees, customers, or invitees arising from the removal or covering of the graffiti. The department shall assist the adopter in identifying the owner of any wall not owned by the city along the adopted block or portion thereof.

- (4) All of the adopter's participants shall be at least 12 years of age. The adopter shall provide adequate and necessary supervision of all participants under the age of 18. There shall be at least one adult supervisor for every five or fewer participants between the ages of 12 and 17. A signed parental release form shall be provided for every participant between the ages of 12 and 17.
 - (5) The agreement between the adopter and the department may be terminated by either party on written notice to the other.
- (d) Additional Authority of Chief Engineer. The chief engineer may:
- (1) Declare a block or portion thereof as ineligible for the program if its location or physical attributes would pose safety hazards to the adopter or the public.
 - (2) Impose additional requirements for adoption not in conflict with this section and in the interests of public safety or necessary for practical administration of the program.
 - (3) Require the adopter or the owner of any wall along the adopted block or portion thereof who consents to inclusion of the wall in the program to execute such releases, indemnity agreements, and similar agreements as the chief engineer may deem advisable in consultation with the corporation counsel.
 - (4) Attach to a bus stop shelter or bench or bus stop sign pole a plaque citing the adopter's adoption of the block. To be eligible for a plaque, the block adopted shall consist of a city block which includes a city-owned bus stop shelter or bench on it. The chief engineer shall have the authority to determine whether and where to attach a plaque, but that authority shall be exercised in accordance with this subdivision and other applicable law or ordinance and after consultation with the director of transportation services. A plaque shall state: "_____ (Adopter's name) Adopt-A-Block Cleanup Program." It shall not include any other word or logo, trademark, symbol, or other image. The chief engineer shall determine the dimension, design, and coloring of a plaque; provided that, if the plaque is to be attached to a bus stop sign pole, it shall be smaller than the bus stop sign, attached beneath the sign, and designed and oriented so as not to constitute a traffic or pedestrian hazard. A plaque shall be deemed a "public sign," not "plaque," for the purpose of the Land Use Ordinance. When the chief engineer attaches or directs the attachment of a plaque in accordance with this section, the action shall be deemed a performance of a public duty for the purpose of HRS Chapter 445, Part IV.

(Added by Ord. 98-07; Am. Ord. 99-21, 16-29)

Sec. 2-8.4 Street lighting to be energy efficient.

All new and replacement municipal street lighting fixtures installed by the department shall equal or exceed the energy efficiency of low pressure sodium lighting fixtures, unless waived by the chief engineer in accordance with rules adopted pursuant to HRS Chapter 91.

(Added by Ord. 16-29)

(Article 9. Building Department. Repealed by Ord. 16-29)

Article 9. Reserved

(Article 10. Department of Health. Repealed by Ord. 16-29)

Article 10. Reserved

Article 11. Fire Department***Sections:****2-11.1 Powers, duties and functions.****Sec. 2-11.1 Powers, duties and functions.****

The fire chief shall be charged with the prevention of fires and the protection of life and property against fire and shall:

- (a) Report Losses. Report all fire losses periodically to the mayor.
- (b) Maintain Equipment. Be responsible for the maintenance and care of all property and equipment used by the fire chief's department.
- (c) Fire Extinguishers. Grant, withhold, suspend or revoke certificates of fitness authorizing persons to repair, fill or refill portable fire extinguishers.

(Sec. 2-11.1, R.O. 1978 (1983 Ed.))

Article 12. Department of Transportation Services*****Sections:****2-12.1 Powers, duties and functions.****(2-12.2 Street lighting to be energy efficient. Repealed by Ord. 16-29)****2-12.2 Reserved.****Sec. 2-12.1 Powers, duties and functions.**

The director of transportation services shall:

- (a) Be authorized to issue permits for the movement of vehicles, equipment or other objects of excessive weight, width, or height as prescribed by law.
- (b) Be responsible for the collection of revenue from on-street and off-street parking meters and for the construction and maintenance of multideck parking lots.
- (c) Plan, develop, promote and coordinate:
 - (1) Ridesharing programs, which include, but are not limited to, carpool, vanpool, taxipool and buspool programs. The director shall assist organizations interested in promoting ridesharing programs, arrange for contracts with private organizations to manage and operate the programs, and assist in the formulation of ridesharing arrangements. "Ridesharing programs" include informal arrangements in which two or more persons ride together in a motor vehicle to and from work or school; and
 - (2) Other transportation systems management programs, which include, but are not limited to, alternate work hours programs and bicycling programs.
- (d) Prepare a bikeway system and master plan for urban Honolulu to be submitted to the council for approval, and thereafter prepare and submit for council approval revisions to the plan at least every five years after the adoption of the plan by the council. The bikeway system in the plan shall, at a minimum, connect the following principal bicycle destinations: Waikiki, Diamond Head, the University of Hawaii and Manoa Valley, Punchbowl, the Hawaii Capital Special District, Chinatown, Aloha Tower, the state Waterfront Park and redevelopment area, Ala Moana Beach Park, the airport area, and military bases.
- (e) Be responsible for the:
 - (1) Planning, administration and coordination of programs and projects that are:
 - (A) Proposed to be funded, wholly or partially, under the federal Urban Mass Transportation Act of 1964, as amended, the Federal Aid Highway Act of 1973, as amended, or any other federal law or regulation; and

***Editor's Note:** In general, Chap. 10, Art. VI, Revised Charter. Retirement system, HRS §§ 88-21, 88-45 and 88-63.

****Editor's Note:** Additional duties are prescribed in HRS Chap. 132.

*****Editor's Note:** In general, Chap. 17, Art. VI, Revised Charter.

(B) Required to be transmitted by the city to the Oahu metropolitan planning organization. In the planning, administration and coordination of the programs and projects, the director shall consult with the department of planning and permitting. When deemed appropriate, the director may assign the responsibility for planning and administering a particular program or project to the department of planning and permitting.

- (2) Receipt of federal funds for the programs and projects and:
 - (A) Expenditure of those federal funds appropriated to the department of transportation services; and
 - (B) With respect to those federal funds appropriated to the department of planning and permitting, apportionment of the funds to that department for expenditure.
 - (3) Preparation of the short-range transit plan and any update. The "short-range transit plan" means the same as defined under Section 4-2.1.
 - (f) Manage and maintain all commercial parking facilities except facilities that are attached or adjacent to a building or project managed by another city agency.
- (Sec. 2-12.1, R.O. 1978 (1983 Ed.); Am. Ord. 89-149, 91-27, 94-39, 97-02, 16-29)

(Sec. 2-12.2 Street lighting to be energy efficient. Repealed by Ord. 16-29)

Sec. 2-12.2 Reserved.

Article 13. Department of Enterprise Services*

Sections:

2-13.1 Powers, duties and functions.

2-13.2 Status of city parks and recreational facilities.

Sec. 2-13.1 Powers, duties and functions.

The director of the department of enterprise services shall:

- (a) Have the authority to negotiate contracts for:
 - (1) Concessions in or on; or
 - (2) The renting, leasing, or licensing of; property under the control of the department, including the auditorium, cultural, entertainment, and recreational facilities assigned to the department, pursuant to Chapter 28; provided, that all such contracts shall be executed by the director of budget and fiscal services. **
- (b) Have the authority to manage, control, and operate the facilities of the municipal auditorium complex and the Waikiki Shell complex of the city, including the right of custody, repair, and maintenance of all property and equipment assigned to and used by the department.

(Sec. 2-13.1, R.O. 1978 (1983 Ed.); Am. Ord. 16-29)

Sec. 2-13.2 Status of city parks and recreational facilities.

- (a) Except as provided in subsection (b), parks and recreational facilities, or any portion thereof, under the ownership, management, or control of the city shall not be deemed to be cultural or entertainment facilities subject to the jurisdiction of, or assignment to, the department of enterprise services.
- (b) Subsection (a) does not apply to the following:
 - (1) The Honolulu Zoo;
 - (2) The Waikiki Shell complex; and
 - (3) Municipal golf courses.

(Added by Ord. 17-21)

***Editor's Note:** In general, Chap. 15, Art. VI, Revised Charter.

****Editor's Note:** See Chapter 28, ROH 1990.

(Article 14. Department of Land Utilization Central Coordinating Agency for Oahu. Repealed by Ord. 16-29.)

Article 14. Reserved

Article 15. Royal Hawaiian Band*

Sections:

2-15.1 Powers, duties and functions.

2-15.2 Fees for services.

Sec. 2-15.1 Powers, duties and functions.

The bandmaster shall:

- (a) Be charged with the supervision, direction and control of the Royal Hawaiian Band.
- (b) Keep a permanent and accurate inventory of the musical instruments and other related equipment and fixtures assigned to or used by the band.

(Sec. 2-15.1, R.O. 1978 (1983 Ed.))

Sec. 2-15.2 Fees for services.

(a) The following are the fees to be assessed for any performance by the Royal Hawaiian Band of the city:

- (1) Private function\$1,200.00 for the first hour, and thereafter, \$150.00 for each 15 minutes or fraction thereof.
- (2) Television, radio, movies or recordings \$150.00 per 15 minutes or fraction thereof, plus royalties and residuals.
- (3) Vessel arrival or departure\$300.00 for each performance.
- (4) Public or semi public function..... No fee.

(b) The term "public" means and includes occasions sponsored by or related to a governmental purpose. The term "semi public" means and includes occasions which are sponsored by or related to community, civic, athletic, or ethnic organizations or associations and which are either eleemosynary corporations chartered under the laws of the State of Hawaii, or listed by the Internal Revenue Service as a nonprofit organization or association or duly recognized by the residents of the city as a community or civic organization, with sufficient public purpose to warrant performance by the band with incidental benefits to the private organizations or associations.

(c) All fees collected under this article shall be paid into the general fund of the city.

(Sec. 2-15.2, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 99-10, 02-66)

Article 16. Department of Parks and Recreation

Sections:

2-16.1 Powers, duties and functions.

Sec. 2-16.1 Powers, duties and functions.

The director of parks and recreation shall:

- (a) Operate and maintain the Waikiki war memorial and natatorium, including its structures, facilities and grounds;
- (b) Schedule the use of parks areas and facilities, provided that the director may give preference to events which promote Hawaii-based artists, whenever practicable; and
- (c) Perform such other duties as may be required by law.

(Added by Ord. 90-1; Am. Ord. 94-77)

*Editor's Note: In general, § 6-105, Revised Charter.
Pensions, HRS Chap. 88.
Travel, HRS § 46-10.

Article 17. Execution of Executive Operating Budget and Executive Capital Budget Ordinances

Sections:

- 2-17.1 **Definitions.**
- 2-17.2 **Budget execution.**
- 2-17.3 **Moneys earned on investment of funds.**
- 2-17.4 **Notice of bid results.**

Sec. 2-17.1 **Definitions.**

As used in this article, unless the context clearly indicates otherwise:

"Activity" means the lowest level in the appropriations ordinance at which resources are budgeted.

"Permanent position count" means the number of permanent full time equivalent positions authorized for each activity by law.

"Program" means a combination of activities designed to achieve a specific goal of the city.

"Temporary position count" means the number of temporary, full-time equivalent positions which are authorized for each activity by law. Temporary positions shall include those positions defined in Revised Charter subsections 6-1103(f) and (g).

(Sec. 2-18.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 90-49, 96-58, 16-29)

Sec. 2-17.2 **Budget execution.**

Upon the enactment of the executive operating budget ordinance and the executive capital budget ordinance, each executive agency may make expenditures pursuant to the charter, subject, however, to the following:

- (a) **Authorized Positions.** Only those positions authorized within the specified permanent position count and temporary position count for each activity under the executive operating budget ordinance may be established, filled, and have funds allotted to them. Provided, however, if because of an unforeseen or emergency circumstance a temporary position is required for an activity for which a temporary position count has not been authorized, the mayor, after notifying the council, may establish, fill and allot funds for that temporary position.

The notification shall identify: the type of temporary position required, the anticipated duration of the employment of the temporary position, the cost of the temporary position, the source of budgetary savings which will accrue to finance the temporary position, and the unforeseen or emergency circumstance justifying the need for the temporary position.

- (b) (1) **Temporary Transfers of Positions.** Temporary transfers of positions by the mayor shall be permitted pursuant to Section 5-103 of the charter within the fiscal year. A quarterly status report of all transfers shall be filed with the office of the city clerk. Such report shall include, but need not be limited to, the following information for each position transferred: the position title and position number of the position transferred, the originating activity from which the position is transferred, the activity to which the position is transferred, the title and function of the position in its temporary assignment, the purpose for the transfer, and the effective date and the anticipated duration of the temporary transfer.
- (2) Temporary transfer of position actions shall not be used as a means to circumvent the annual budget policies and process.
- (c) **Transfer of Funds.**
- (1) No transfer of funds from an activity shall be executed without council approval by resolution when the cumulative amount of transfers from that activity shall total in excess of \$100,000.00 or 10 percent of the amount appropriated for that activity in the executive operating budget ordinance, as may be amended, whichever is less. No transfer of funds to an activity shall be executed without council approval by resolution when the cumulative amount of transfers to that activity shall total in excess of \$100,000.00 or 10 percent of the amount appropriated for that activity in the executive operating budget ordinance, as may be amended, whichever is less. A report of all individual transfers of funds between activities occurring within each month shall be filed with the office of the city clerk within 15 days after the end of the month. Such report shall include, but need not be limited to, the following information: the amount of funds transferred, the source of funding of the transferred funds, the originating activity and character of

expenditure thereof from which the funds are transferred, the activity and character of expenditure thereof to which the funds are transferred, the purpose for the transfer, and the impact of the loss of funds on the originating activity.

- (2) Except as otherwise provided in subdivision (4), no transfer of funds between characters of expenditure within the same activity shall be executed without council approval by resolution when the cumulative amount of such transfers exceeds the lesser of:
- (A) \$100,000.00, or
 - (B) the greater of:
 - (i) 10 percent of the appropriation for either the originating or receiving character of expenditure, or
 - (ii) \$10,000.00.

A report of all individual transfers of funds between characters of expenditure shall be filed with the office of the city clerk within 15 days after the end of the month. Such report shall include, but need not be limited to, the following information: the amount of funds transferred, the source of funding of the transferred funds, the originating character of expenditure from which the funds are transferred, the character of expenditure to which the funds are transferred, the purpose of the transfer, and the impact of the loss of funds on the originating character of expenditure.

- (3) For the purposes of this subsection, "character of expenditure" means the same as defined in Section 2-18.1.
- (4) Council approval shall not be required for transfers of funds between characters of expenditure within the same activity when the funds transferred are from and will remain a part of the appropriations to the transit management services contractor as defined in Chapter 13. A report of all individual transfers of funds as provided herein shall include the same information prescribed in subdivision (2). The report shall be filed with the office of the city clerk within 15 days after the end of the month and a copy of the report shall be transmitted to the city council.
- (d) Force and Effect of the Executive Program. The temporary position count for each activity as may be provided for in the executive program, as attached to the executive operating budget ordinance, shall have the same force and effect as provided by this article, to limit funding only to duly authorized temporary positions.
- (Sec. 2-18.2, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 88-14, 90-49, 91-27, 96-23, 97-02, 98-02, 00-48)

Sec. 2-17.3 Moneys earned on investment of funds.

Unless otherwise provided by law, or by ordinance or resolution providing for the issuance of and security for bonds of the city, all moneys earned on the investment of funds shall be deposited to the general fund of the city. (Sec. 2-18.3, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 98-20)

Sec. 2-17.4 Notice of bid results.

- (a) Whenever the city receives bids for a capital improvement project, one or more of which bids exceed the city's estimate of the project's cost, and the user agency decides not to proceed with the project, the user agency shall notify the city council of the following as soon as the user agency determines not to award the contract because of insufficient funds:
- (1) The name of the project;
 - (2) The city's estimate of the project's cost;
 - (3) The dollar amount of each bid received for the project; and
 - (4) The amount and percentage by which the lowest bid exceeds the city's estimate of the project's cost.
- (b) For the purpose of this section, "user agency" means the city agency for which the project is being built.
- (Added by Ord. 94-74)

Article 18. Form of Executive Operating Budget and Executive Capital Budget Bills

Sections:

- 2-18.1 Definitions.**
- 2-18.2 Executive operating budget bill—Form.**
- 2-18.3 Executive capital budget bill—Form.**
- 2-18.4 Transfer and allocation of funds.**
- 2-18.5 Executive program and budget.**
- 2-18.6 Line-item budget details.**
- 2-18.7 Report on position vacancies.**
- 2-18.8 Park land acquisition—Report.**

Sec. 2-18.1 Definitions.

As used in this article, unless the context clearly indicates otherwise:

"Activity" means the lowest level in the appropriations ordinances at which resources are budgeted.

"Character of expenditure" means the major categories of expenditures. For the operating budget, it includes, but is not limited to, salaries, other current expenses and equipment. For the capital budget, it includes the work phases.

"Function" means a combination of programs designed to achieve a major purpose of the city.

"Position count" means the number of permanent full time equivalent positions requested for authorization.

"Program" means a combination of activities designed to achieve a specific goal of the city.

"Source of funding" means the source from which funds are requested for appropriation for the activities and projects specified in the executive operating budget and executive capital budget bills. Each source of funding shall be identified with a unique letter symbol.

"Work phase" means a stage or element of a capital project including, but not limited to, planning and engineering, land acquisition, construction, inspection, equipment and artwork purchased for display on city property. (Added by Ord. 88 107)

Sec. 2-18.2 Executive operating budget bill—Form.

The proposed executive operating budget bill shall be substantially in the form found in Exhibit A, attached to the ordinance codified in this article, and made a part hereof, and it shall include, but not be limited to, the following:

- (a) A summary of the estimated revenues, by source, with which the expenditures requested for appropriations shall be financed. If the source of funding is a broad category of funds composed of specific component funds, such as other operating funds, other federal funds or other state funds, a listing of all anticipated grants or programs, along with the estimated revenue for each, which comprise this source of funding shall also be included.
- (b) Definitions of key words, phrases and symbols including, but not limited to, letter symbols designating the source of funding for the appropriations.
- (c) For each activity, the number of full time equivalent positions, the amount of the requested appropriation by source of funding, the amount of the requested appropriation by character of expenditure, and the moneys which comprise the requested appropriation for the activity.
- (d) For each function, the total full time equivalent positions, the amount of the requested appropriation by source of funding, the amount of the requested appropriation by character of expenditure, and the total of all moneys which comprise the requested appropriation for the function.
- (e) The total of all moneys requested for appropriation by function.
- (f) The executive operating budget bill may include provisos or conditions applicable to one or more activity and which relate to the receipt or expenditure of funds or positions requested within the bill.

Volume I of the executive program and budget shall show, as appropriate, amounts reflecting prior fiscal year expenditures, current appropriations, and funding proposals for the ensuing fiscal year at a level below the activity level. Where necessary for review purposes, the city council may request that additional subactivities be added. These new subactivities shall be shown in future budgets submitted to the city council. In addition,

each budgeted item within the miscellaneous function shall be deemed a separate activity and Volume I shall include a statement of purpose for each activity and show prior fiscal year expenditures inclusive of any transfer to and from the activity and current appropriations and funding proposals for the ensuing fiscal year. (Added by Ord. 88-107; Am. Ord. 91-24, 96-23)

EXHIBIT A

ORDINANCE _____

BILL _____

A BILL FOR AN ORDINANCE

RELATING TO THE EXECUTIVE OPERATING BUDGET AND PROGRAM FOR THE FISCAL YEAR JULY 1, 20__ TO JUNE 30, 20__.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. The revenues from the following sources estimated for the fiscal year July 1, 20__ to June 30, 20__ are hereby provided and appropriated for the purposes set forth in Sections 2 through __:

OPERATING FUNDS

<u>Fund Code</u>	<u>SOURCE OF FUNDS</u>	<u>AMOUNT</u>	<u>LESS INTERFUND TRANSFER</u>	<u>NET AMOUNT</u>	<u>TOTAL</u>
XX	XXXX	\$	\$	\$	\$
	TOTAL	\$	\$		\$

SECTION 2. The monies described in Section 1 for the fiscal year July 1, 20__ to June 30, 20__ are appropriated as indicated to the following activities in the _____ function.

FUNCTIONS, PROGRAMS & ACTIVITIES	NUMBER OF POSITIONS (F.T.E.)	SALARIES	CURRENT EXPENSES	EQUIPMENT	TOTAL ALL FUNDS	SOURC E OF FUNDS
FUNCTION						
PROGRAM						
Department						
Activity	XX	\$	\$	\$	\$	\$ XX
TOTAL FUNCTION	XX	\$	\$	\$	\$	\$
	=====	=====	=====	=====	=====	=====
FUNCTION						
SOURCE OF FUNDS						
XX XXXX		\$				
TOTAL FUNCTION		\$				

SECTION 11. The sums appropriated above are totalled as follows:

<u>FUND CODE</u>	<u>GROSS APPROPRIATIONS BY SOURCE OF FUNDS</u>	<u>EXECUTIVE AGENCIES</u>	<u>DEBT SERVICE</u>	<u>MISCELLANEOUS</u>	<u>TOTAL</u>
XX	XXXX	\$	\$	\$	\$
	TOTAL	\$	\$	\$	\$

<u>FUNCTION</u>	<u>TOTAL</u>	<u>LESS INTERFUND TRANSFER</u>	<u>NET TOTAL</u>
XXXX	\$	\$	\$
	\$	\$	\$
TOTAL	\$	\$	\$
	=====	=====	=====

(Added by Ord. 01-52)

Sec. 2-18.3 Executive capital budget bill—Form.

The proposed executive capital budget bill shall be substantially in the form found in Exhibit B, attached to the ordinance codified in this article, and made a part hereof, and it shall include, but not be limited to, the following:

- (a) A summary of the estimated revenues, by source, with which the capital improvement projects are to be financed. If the source of funding is a broad category of funds composed of specific component funds, such as other federal funds or other state funds, a listing of all anticipated grants or programs, along with the estimated revenue for each, which comprise these sources of funding shall also be included.
- (b) Definitions of key words, phrases and symbols including, but not limited to, letter symbols designating the source of funding for the appropriations.
- (c) For each capital improvement project requested, the title of the project, the amount of the requested appropriation by source of funding, the amount of the requested appropriation by work phase, and the total of all moneys which comprise the requested appropriation for the project. The display of the appropriation for each project by work phase is for information purposes only and shall not be construed as restricting the allocation of moneys among the work phase appropriations.
- (d) For each function, the total amount of requested appropriations by source of funding, the total amount of the requested appropriations by work phase, and the total of all moneys which comprise the requested appropriation for the function. The display of the appropriation for each function by work phase is for information purposes only and shall not be construed as restricting the allocation of moneys among the work phase appropriations.
- (e) The total of all moneys requested for appropriation by function.
- (f) The executive capital budget bill may include provisos or conditions applicable to one or more than one project and which relate to the receipt or expenditure of funds appropriated in the ordinance.

(Added by Ord. 88 107; Am. Ord. 91-02, 01-52)

EXHIBIT B

ORDINANCE _____

BILL _____

A BILL FOR AN ORDINANCE

RELATING TO THE EXECUTIVE CAPITAL BUDGET AND PROGRAM FOR THE FISCAL YEAR JULY 1, 20__ TO JUNE 30, 20__.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. The revenues from the following sources estimated for the fiscal year July 1, 20__ to June 30, 20__ are hereby provided and appropriated for the purposes set forth in Sections 2 through __:

<u>FUND CODE</u>	<u>SOURCE OF FUNDS</u>	<u>AMOUNT</u>	<u>TOTAL</u>
XX	XXXX	\$	\$
	TOTAL ALL FUNDS		\$
			=====

SECTION 2. The monies described in Section 1 for the fiscal year July 1, 20__ to June 30, 20__ are appropriated as indicated to the following projects and public improvements in the _____ function. Nothing in this section shall be construed as restricting the allocation of monies among the work phase appropriations (e.g., planning, design, and construction).

PROJECT NUMBER	FUNCTIONS, PROGRAMS & PROJECTS	WORK PHASE	SOURCE OF FUNDS	TOTAL ALL FUNDS
	FUNCTION			
	Program			
	DEPARTMENT			
XX	Project	\$ XX	\$ XX	\$
	TOTAL FUNCTION			\$

FUNCTION
SOURCE OF FUNDS

XX XXXX	\$
TOTAL SOURCE OF FUNDS	\$ _____

WORK PHASE

XX XXXX	\$
TOTAL WORK PHASES	\$ _____

SECTION 9. The sums appropriated above are totalled as follows:

<u>FUNCTION</u>	
XXXX	\$

TOTAL	\$

(Added by Ord. 01-52)

Sec. 2-18.4 Transfer and allocation of funds.

The execution of the budget appropriations and the transfer of funds therein shall be governed by Article 17 of this chapter, as amended. Nothing herein shall be construed as to restrict the allocation of an appropriation among the work phase appropriations.

(Added by Ord. 88-107; Am. Ord. 96-23)

Sec. 2-18.5 Executive program and budget.

Nothing in this article shall be construed to mandate that the format of volumes I and II of the documents entitled executive program and budget previously submitted to council pursuant to Section 9-102 of the Revised Charter of the City and County of Honolulu, as amended, be altered or that any information provided therein be deleted. The executive program and budget shall, at the outset, define and identify those sections of the document which constitute the executive program and which constitute the executive budget.

(Added by Ord. 88-107)

Sec. 2-18.6 Line-item budget details.

- (a) At the same time the mayor submits the budget documents specified in Section 9-102.1, Revised Charter of the City and County of Honolulu, to the council, the mayor also shall submit related line-item budget details for each budgeted activity in the executive operating budget bill, according to salary, current expense, and equipment expenditure categories.
- (1) The line-item budget for salary cost items shall include, but not be limited to, the class description of budgeted positions.
 - (2) The line-item budget for current expenses shall include, but not be limited to, the object description of each item. For line items exceeding \$50,000, additional information shall be provided, including descriptions of the budgeted items and/or services.
 - (3) The line-item budget for equipment shall include, but not be limited to, a listing of the type of equipment. For line items exceeding \$50,000, additional information shall be provided, including description and purpose of the budgeted equipment.
 - (4) The amounts displayed in the details shall total to the activity appropriations of the budget.
- (b) At the same time the mayor submits the budget documents specified in Section 9-102.1, Revised Charter of the City and County of Honolulu, to the council, the mayor also shall submit related line-item budget details for each miscellaneous project in the executive capital budget bill exceeding \$50,000, such as ADA improvements, public building facilities improvements, rehabilitation of streets, landscape improvements, playfield lighting improvements, reconstruction of wastewater systems for various parks, renovation of recreational facilities, etc. As used in this subsection, "miscellaneous project" means a single capital project that provides a lump-sum appropriation for a number of similar projects.

(Added by Ord. 95-58; Am. Ord. 08-7, 13-15)

Sec. 2-18.7 Report on position vacancies.

Within five days after the mayor submits to the council the budget documents specified in Revised Charter Section 9-102.1, the mayor shall also submit to the council a report on position vacancies in the city executive branch. The report shall include, but not be limited to, an updated listing (as of January 31st of the year of submittal or later) of all vacant positions, by activity, within each city department and agency and by position number and position title. For each vacant position, the report shall indicate the amount budgeted for the position in the upcoming fiscal year, including the source of funds; whether the position has ever been filled; if the position has at some time been filled, the date on which the position became vacant; whether the position is temporary or permanent; and whether and when the position is proposed to be filled or abolished.

(Added by Ord. 96-32)

Sec. 2-18.8 Park land acquisition—Report.

- (a) No funds for the acquisition of five acres or more of land for a park or expansion of a park shall be included, by either the council or the mayor, in the executive capital budget or any amendment thereto, unless the director of parks and recreation, after consultation with the department of design and construction, department of enterprise services, or other applicable department(s), has transmitted to the city council a report which sets forth the anticipated cost of operating and maintaining the proposed park and states the major assumptions underlying the report, including assumptions relating to anticipated uses of the park, particularly the anticipated uses of the land to be acquired. In lieu of the report, the information on the anticipated cost of operating and maintaining the proposed park, including the assumptions relating to anticipated park uses, may be provided by the department of planning and permitting at the time a proposal to amend a public infrastructure map to add a park symbol is submitted to the council. For the purposes of this section, a "park" includes the areas and facilities listed in the definition of a "public park" in Section 10-1.1, including a city golf course, regardless of the city department or agency that will control, maintain, and manage the areas and facilities.
- (b) Notwithstanding the requirement established in subsection (a), in the event there is an urgent need to acquire park land or there is a time-sensitive opportunity to acquire park land at a cost significantly below the market value of the land, at any time the council, by resolution, may waive the requirement for the report if the council makes a finding that the waiver of the requirement is necessary.

(Added by Ord. 01-44, 16-29)

(Article 19. Awarding of Consultant Contracts. Repealed by Ord. 98-64)**Article 19. Executive Branch Open Data Requirements****Sections:**

- 2-19.1 Definitions.**
- 2-19.2 Electronic data set availability and updates**
- 2-19.3 City liability for data sets.**
- 2-19.4 Data set licensing.**
- 2-19.5 Data set policies and procedures.**

Sec. 2-19.1 Definitions.

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

“Agency” means “executive agency” as defined in Section 13-101 of the Revised Charter of the City and County of Honolulu.

“Data” means final versions of statistical or factual information that is:

- (1) In alphanumeric form reflected in a list, table, graph, chart, or other non narrative form, that can be digitally transmitted or processed; and
- (2) Regularly created or maintained by or on behalf of and owned by an agency that records a measurement, transaction, or determination related to the mission of that agency.

“Data set” means a named collection of related records on an electronic storage device, with the collection containing individual data units organized or formatted in a specific and prescribed way, often in tabular form, and accessed by a specific access method that is based on the data set organization; provided that a data set shall not include any data that are protected from disclosure under applicable federal or state law, or contract, or data that are proprietary or privileged.

(Added by Ord. 13-39)

Sec. 2-19.2 Electronic data set availability and updates.

(a) Each agency shall use reasonable efforts to make appropriate and existing electronic data sets maintained by the agency electronically available at no cost to the public through the city’s open data portal at data.honolulu.gov or its successor website designated by the city’s director of information technology; provided that:

- (1) Nothing in this chapter shall require agencies to create new electronic data sets or to make data sets available upon demand;
- (2) Data licensed to the city by another person or entity shall not be made public under this chapter unless the person or entity licensing the data agrees to the public disclosure; and
- (3) Proprietary, privileged, and other information protected from disclosure by law, ethical standard or contract shall not be disclosed.

Such disclosure shall be consistent with the procedures and standards developed by the director of information technology and consistent with applicable law, including HRS Chapter 92F and other state and federal laws and ethical standards related to security, privacy and confidentiality and no personally identifiable information shall be posted online unless the identified individual has consented to the posting or the posting is necessary to fulfill the lawful purposes or duties of the agency.

- (b) Nothing in this chapter shall, if necessary, prevent the director of information technology from adopting rules pursuant to HRS Chapter 91 and nothing in this chapter shall supersede HRS Chapter 27G.
- (c) Each agency shall update its electronic data sets in the manner prescribed by the director of information technology and as often as is necessary to preserve the integrity and usefulness of the data sets to the extent that the agency regularly maintains or updates the data sets.

(Added by Ord. 13-39)

Sec. 2-19.3 City liability for data sets.

Data sets shall be available for informational purposes only. The city does not warrant, either expressly or impliedly, the completeness, accuracy, content or fitness of any data set for a particular purpose and shall not be liable for any deficiencies in the completeness or accuracy of any data set, or third-party application utilizing any data set.

(Added by Ord. 13-39)

Sec. 2-19.4 Data set licensing.

The director of information technology may make the agencies' electronic data sets on data.honolulu.gov or its successor website available to third parties pursuant to a license, which may require the licensee to allow any user to copy, distribute, display, or create derivative works at no cost and with an appropriate level of conditions placed on the use.

(Added by Ord. 13-39)

Sec. 2-19.5 Data set policies and procedures.

- (a) The director of information technology, in consultation with the office of information practices and the state's office of information management and technology, shall adopt rules, pursuant to HRS Chapter 91 to establish policies to implement Section 2-19.2, including standards to determine which data sets are appropriate for online disclosure as provided in Section 2-19.2; provided that the standards shall not require the agencies to post information that is otherwise required to be disclosed under HRS Chapter 92F, but is personally identifiable information, information that may pose a personal or public security risk or is otherwise inappropriate for online disclosure as part of a data set. The rules shall include the following:
- (1) Technical requirements with the goal of making data sets available to the greatest number of users and for the greatest number of applications, including whenever practicable, the use of machine readable, non-proprietary technical standards for web publishing; and
 - (2) Guidelines for agencies to follow in making data sets available.
- (b) Notice of the public hearing to be held on the draft rules pursuant to HRS Section 91-3 shall be published within 180 days of the effective date of this ordinance, and shall provide notice of the opportunity for public input and comment.

(Added by Ord. 13-39)

(Article 20. Acquisition of Property by Eminent Domain. Repealed by Ord. 16-29)

Article 20. Reserved

(Article 21. Municipal Reference and Records Center. Repealed by Ord. 18-30)*

***Editor's Note:** Article 21, "Municipal Reference and Records Center," was not included in the Revised Ordinances of Honolulu 1978 based on what had been perceived as a redundancy between the Revised Charter of Honolulu 1969 and the Revised Ordinances. These provisions were never actually repealed; they were in fact further amended in 1976 by Ordinance No. 4586. Consequently, Article 21, as amended by Ordinance No. 4586, is returned to the Revised Ordinances of Honolulu as Article 21, Chapter 2.

Article 21. Department of Customer Services**Sections:****2-21.1 Municipal Reference and Records Center.****Sec. 2-21.1 Municipal Reference and Records Center.**

- (a) There shall be a municipal reference and records center in the department of customer services.
- (b) It shall be the duty of the director of customer services to guide the development and maintenance of a collection of publicly released documents, which may be made available to any officer or employee of the city government, and to maintain an electronic depository for the purpose of facilitating public access.
- (c) The municipal reference and records center is designated as a depository for publications issued by or for city agencies. Each city agency shall, immediately upon release of a publication, deposit with the municipal reference and records center a copy or copies of the final version of any consultant study, document, compilation, journal, report, rules and regulations in a manner, quantity, and format as determined by the municipal reference and records center, but excluding publications determined by the issuing agency to be of a confidential nature.

(Added by Ord. 18-30)

(Article 22. Annual Review of Fees and Charges. Repealed by Ord. 16-29)

Article 22. Age-Friendly City Program**Sections:**

- 2-22.1 Definitions.**
- 2-22.2 Age-friendly city program.**
- 2-22.3 Administration—implementation.**
- 2-22.4 Annual report.**

Sec. 2-22.1 Definitions.

As used in this article:

“Action plan” means ‘Making Honolulu an Age-Friendly City: An Action Plan,’ a June 2015 report prepared by the University of Hawaii Center on Aging, including any revisions or updates thereto from time to time.

“Age-friendly checklist” means a tool to collect data and information about the status of city programs, services, facilities, or projects with the goal of ensuring that city directors and their departments consider the goals and objectives of the age-friendly city program and action plan in the conduct of their normal business, and to provide a mechanism for informing the public of the status of age-friendly city program implementation.

“Age-friendly city” means an inclusive and accessible urban or suburban environment that encourages active and healthy aging, as elaborated in the action plan.

“Area Plan on Aging” means a four-year plan prepared in compliance with the federal Older Americans Act by the Department of Community Services, Elderly Affairs Division, the recognized Area Agency on Aging, that outlines major goals and objectives to be achieved in the delivery of elderly services.

“Consolidated Plan” means the same as defined under Section 1-8.1.

“Directors” means the administrative heads of all city departments of the executive branch, however denominated.

“General plan” means the same as defined under Section 2-24.2.

(Added by Ord. 18-36)

Sec. 2-22.2 Age-friendly city program.

- (a) There is hereby established within the department of community services an age-friendly city program.

- (b) The purpose of this program is to make Honolulu an “age-friendly city” as envisioned in the World Health Organization's Global Network of Age-Friendly Cities and Communities program. The initial steps towards this goal were outlined in the action plan and overseen by a joint city and community implementation committee. Age-friendly programs, services, facilities, and projects as outlined in the World Health Organization's ‘Global age-friendly cities: A guide,’ in its original published form or as amended, will be incorporated, as appropriate, within the city’s planning documents, including, but not limited to, the general plan, Consolidated Plan, and Area Plan on Aging. The program will sustain the age-friendly city initiative into the future by guiding the comprehensive and balanced planning, budgeting, design, construction, implementation, operation, and evaluation of city programs, services, facilities, and projects in accordance with the age-friendly city concept.

(Added by Ord. 18-36)

Sec. 2-22.3 Administration–Implementation.

- (a) The managing director shall designate a city employee as program coordinator. The program coordinator shall work with all city departments to encourage and incorporate age-friendly city features in the planning, budgeting, design, construction, implementation, operation, and evaluation of city programs, services, facilities, and projects.
- (b) The directors shall:
- (1) Establish age-friendly checklists and administrative procedures appropriate to their departments, and apply the checklists to programs and projects within their departments. The age-friendly checklists shall be updated from time to time by the directors as necessary to reflect age-friendly city best practices;
 - (2) Establish appropriate metrics, as described in the action plan, to measure, assess, and report on progress in meeting the goals and objectives of the age-friendly city program; and
 - (3) Provide training for their staffs in developing age-friendly city policies, principles, and implementation procedures that may be applicable to the performance of their duties.
- (c) Rules, policies, plans, and design guidelines shall be consistent with the age-friendly city concept and with the age-friendly city goals and strategies as elaborated in the action plan. Design standards, guidelines, and manuals shall incorporate national best practice guidelines and shall be updated from time to time by the directors as necessary to reflect current best practices.
- (d) Within six months of October 11, 2018, the directors shall establish and begin to apply to the activities of their departments age-friendly checklists, administrative procedures, and metrics as set forth in subsection (b) of this section. Where age-friendly checklists, administrative procedures, and metrics are already in use, they shall be updated within this period.
- (e) Within one year of October 11, 2018, the directors shall review existing ordinances, codes, subdivision standards, rules, policies, plans, and design guidelines, assess their consistency with the age-friendly city concept and with the age-friendly city goals and strategies as elaborated in the action plan, and initiate any updates needed to achieve compliance with subsection (c) of this section.

(Added by Ord. 18-36)

Sec. 2-22.4 Annual report.

- (a) For each fiscal year commencing subsequent to October 11, 2018, the directors shall submit to the council a report detailing their compliance with the age-friendly city program during the prior fiscal year, including:
- (1) A listing of the department’s age-friendly city-related budgetary appropriations and expenditures for the prior fiscal year;
 - (2) A listing of the department’s age-friendly city programs, services, facilities, or projects initiated during the prior fiscal year and the age-friendly city features incorporated therein; and
 - (3) A listing of metrics used by the department in the prior fiscal year to monitor progress towards the attainment of age-friendly city goals and objectives.

The annual report required by this section may be part of each agency’s annual report required by charter.

- (b) The managing director, with input from the directors, shall make public the city’s efforts at advancing the age-friendly city program.

(Added by Ord. 18-36)

Article 23. Department of Environmental Services

Sections:

- 2-23.1 Powers, duties and functions.**
- 2-23.2 Used oil recycling program.**

Sec. 2-23.1 Powers, duties and functions.

The director of the department of environmental services shall:

- (a) Advise the director of design and construction concerning the planning and design of wastewater facilities.
- (b) Oversee the operation and maintenance of sewer lines, treatment plants, and pumping stations.
- (c) Monitor the collection, treatment, and disposal of wastewater.
- (d) Provide chemical treatment and pumping of defective cesspools.
- (e) Develop and administer solid waste collection, processing, and disposal systems including a comprehensive curbside recycling system.
- (f) Promulgate rules and regulations as necessary to administer and enforce requirements established by law.
- (g) Perform such other duties as may be required by law.

(Added by Ord. 93-31; Am. Ord. 16-29)

Sec. 2-23.2 Used oil recycling program.

- (a) The department of environmental services shall establish a used oil recycling program. Under the program, the department, by January 1, 1990, shall:
 - (1) Establish and operate at least one used oil collection center; and
 - (2) Conduct used oil recycling education and promotion activities.
 In addition, the department may establish and provide a curbside used oil collection service, but only after establishment of at least one used oil collection center and commencement of the used oil recycling education and promotion activities.
- (b) For the purpose of this section, "used oil" means a petroleum based oil which through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.
- (c) The department shall establish at least one used oil collection center, at which used oil, generated from other than commercial or industrial activities, shall be accepted from individuals. Each center shall be established on the grounds of a solid waste disposal facility, wastewater treatment plant, wastewater pump station, corporation yard or other facility under the jurisdiction of the department, or at privately operated service stations designated by the department. Establishment shall be contingent upon a finding by the department that the used oil collection activity shall not unduly interfere with or endanger the employees or operations of the other facility. In the operation of the used oil collection center, the department shall not:
 - (1) Accept used oil from any business or any individual who has generated the used oil from commercial or industrial activities;
 - (2) Impose any charge on an individual for accepting used oil from the individual; or
 - (3) Pay any amount to an individual for accepting the used oil from the individual, except from funds appropriated by the council for the payment of incentives to encourage individuals to turn in used oil.
- (d) The department shall conduct used oil recycling education and promotion activities, which shall include, but not be limited to, the following:
 - (1) Promotion of public awareness of the hazards and detrimental effects which may result from disposal of used oil in the solid waste disposal system and wastewater treatment and disposal system;
 - (2) Promotion of public awareness of the hazards and detrimental effects which may result from release of used oil into the environment, especially the groundwater;
 - (3) Promotion of public awareness of the businesses and facilities to which used oil may be transported for lawful disposal; and
 - (4) Provision of information to businesses generating used oil of federal, state and city laws and rules concerning disposal of the used oil.

- (e) The department may establish a curbside used oil collection service, under which used oil shall be collected by the department from private dwellings and multi-unit residential buildings. If established, the department periodically on scheduled days, shall collect containers of used oil which are placed within the sidewalk area. The department shall establish the procedures for the collection of used oil, which shall be separate from the procedures for collection of refuse. Under no circumstances shall the department collect used oil from businesses, nor shall the department impose a charge for collection of the used oil.
 - (f) Used oil accepted or collected by the department shall be disposed of under arrangement with a holder of a permit under HRS Chapter 342J, to transport, market or recycle used oil. The city may pay a fee or charge to the used oil transporter, marketer or recycler under an arrangement to transport, market or recycle the used oil. To keep that fee or charge to a minimum, the department may transport any collected or accepted used oil to the facility of the used oil transporter, marketer, or recycler.
 - (g) In the implementation of the used oil recycling program, the department shall comply with all applicable federal and state laws and rules. If a permit from the federal or state government is required to undertake any activity under the program, the department shall obtain the necessary permit.
- (Added by Ord. 16-29)

Article 24. Department of Planning and Permitting**Sections:****Part A. Council Proposals to Revise or Amend the General Plan, a Development Plan, the Zoning Ordinances, and the Subdivision Ordinance**

- 2-24.1 Applicability.**
- 2-24.2 Definitions.**
- 2-24.3 Initiation by the council.**
- 2-24.4 Processing by the department.**
- 2-24.5 Processing by planning commission.**
- 2-24.6 Action by council.**
- 2-24.7 Determination of submission date.**
- 2-24.8 Severability.**

Part B. Central Coordinating Agency for Oahu

- 2-24.9 Authority and purpose.**
- 2-24.10 Designation.**
- 2-24.11 Powers, duties and functions.**
- 2-24.12 Rules and regulations.**
- 2-24.13 Applicability.**
- 2-24.14 Appeals.**
- 2-24.15 Validity.**

Part C. Additional Powers, Duties and Functions

- 2-24.16 Additional powers, duties, and functions.**
- 2-24.17 House numbering.**

Part A. Council Proposals to Revise or Amend the General Plan, a Development Plan, the Zoning Ordinances, and the Subdivision Ordinance**Sec. 2-24.1 Applicability.**

This part shall apply to council proposals to revise or amend:

- (1) The general plan;
- (2) A development plan;
- (3) The zoning ordinances, except as otherwise provided by Section 21-9.100-3(b); and
- (4) The subdivision ordinance.

(Added by Ord. 08-8; Am. Ord. 09-4, 16-29)

Sec. 2-24.2 Definitions.

As used in this article:

"Council proposal" means any proposal set forth in Section 2-24.1.

"Development plan" means a development plan for a particular area within the city, as described in Revised Charter Section 6-1509, and sometimes referred to as a sustainable communities plan, codified in Chapter 24.

"Director" means the director of planning and permitting.

"Director's alternative" means any ordinance or resolution proposed by the director as an alternative to a council proposal as provided in Section 2-24.4.

"General plan" means the general plan for the city, as described in Revised Charter Section 6-1508.

"Revised charter" means the Revised Charter of the City and County of Honolulu 1973, as amended.

"Subdivision ordinance" means the city's ordinance governing the subdivision and consolidation of land, as described in Revised Charter Section 6-1515.1, codified as Chapter 22.

"Zoning ordinance" means:

- (1) The land use ordinance, codified as Chapter 21; and
- (2) An ordinance designating and redesignating land to one or more of the zoning districts specified in the land use ordinance.

(Added by Ord. 08-8; Am. Ord. 16-29)

Sec. 2-24.3 Initiation by the council.

- (a) A council proposal shall be initiated by adoption of a resolution by the council directing the director to process the proposal. The resolution shall state the reason for the proposal and shall attach a draft ordinance or resolution, as appropriate, setting forth the revision or amendment. Upon introduction of a resolution for a council proposal, the city clerk shall transmit a copy of the resolution to the director.
- (b) Prior to the adoption of the resolution pursuant to subsection (a), the director shall assist the council in the preparation of the council proposal by:
 - (1) Advising the council, within 30 days of the submission to the director of the introduced resolution, on the accompanying documentation, if any, needed to satisfy the director's usual requirements for the commencement of processing of the type of proposal being considered (general plan amendment, development plan amendment, land use ordinance amendment, or rezoning of land) in the same manner as if proposed by the director. Any specification of required documentation shall be in sufficient detail to enable production of the documentation by third parties contracted by the council pursuant to subdivision (2);
 - (2) Providing documents and information in the possession and control of the department of planning and permitting, as requested by any councilmember, including but not limited to maps; provided, however, that this subdivision shall not require the director to prepare arguments, justifications, or analyses in favor of the council proposal. Requested documents shall be submitted to the council within 30 days of the submission to the director of a written request from any councilmember. The council may contract with third parties for the preparation of any documentation, and shall submit copies of such documentation to the director for the director's review; and
 - (3) Advising the council on the sufficiency of any documentation prepared by the council or its contractor to accompany the proposal within 30 days of submission of the documentation to the director.

The director's assistance in the preparation of the council proposal pursuant to this subsection shall not be construed as the director's support for or approval of the council proposal. The director's failure to advise the council on the necessary documentation or the sufficiency thereof within the deadlines specified above shall constitute a waiver by the director of any objection for insufficient accompanying documentation. Any supporting documentation shall be attached to and be deemed an integral part of the resolution adopted.

- (c) Upon adoption of a resolution initiating a council proposal, the city clerk shall transmit copies of the resolution to the director and, in the case of council proposals set forth in Sections 2-24.1(1), (2), and (3), the planning commission, along with a writing setting forth the date by which the director's report and accompanying proposed ordinance or resolution are required to be submitted to the planning commission or the council, as applicable, under the deadlines set forth in Sections 2-24.4(a) and (b).

(Added by Ord. 08-8; Am. Ord. 16-29)

Sec. 2-24.4 Processing by the department.

- (a) Council proposals to revise or amend the general plan, any development plan, or a zoning ordinance. Within 270 days of the adoption of the resolution initiating a council proposal to revise or amend the general plan, any development plan, or a zoning ordinance, the director shall submit a report, accompanied by the proposed ordinance or resolution, to the planning commission. If the director proposes an alternative ordinance or resolution for consideration by the planning commission, both versions shall be attached to the director's report in a form sufficient for introduction in the council.

- (b) Council proposal to revise or amend the subdivision ordinance. Within 270 days of the adoption of the resolution initiating a council proposal to revise or amend the subdivision ordinance, the director shall submit a report, accompanied by the proposed ordinance, to the council. If the director proposes an alternative ordinance, both versions shall be attached to the director's report in a form sufficient for introduction in the council.
- (c) Extension of Deadline. Notwithstanding the foregoing, if the director finds that the council proposal involves complex issues that require additional time for review, the director may request a 60-day extension of the deadline as follows:
 - (1) Within the existing deadline, the director shall submit to the council a request for an extension of the deadline and an interim report describing the status of the director's processing of the council proposal and the reasons that additional time is needed for processing.
 - (2) The council may approve or deny the proposed extension by adoption of a committee report or resolution. If the council fails to take final action on the proposed extension within 60 days after receipt of the director's request, the extension shall be deemed denied. The city clerk shall advise the director and, for council proposals set forth in Sections 2-24.1(1), (2), and (3), the planning commission, in writing of the council's action on the director's extension request. If the council approves the extension, the clerk shall also advise the director and, for council proposals set forth in Sections 2-24.1(1), (2), and (3), the planning commission, in writing of the new date by which the director's report and accompanying proposed ordinance or resolution are required to be submitted to the planning commission.
 - (3) If an extension of the deadline is approved by the council, the director may thereafter request subsequent extensions of the deadline in accordance with the procedures described in subdivisions (1) and (2).

(Added by Ord. 08-8; Am. Ord. 16-29)

Sec. 2-24.5 Processing by planning commission.

- (a) The planning commission shall commence processing of a council proposal to revise or amend the general plan, any development plan, or a zoning ordinance, upon the first to occur of:
 - (1) Submission of the director's report and proposed ordinance or resolution; or
 - (2) The director's failure to transmit the report and proposed ordinance or resolution by the deadline required by this part, including any extensions approved by the council pursuant to Section 2-24.4(c).
- (b) The planning commission shall hold a public hearing on the council proposal and any director's alternative within 45 days of the commencement of processing. Within 30 days of the close of the public hearing, the planning commission shall transmit through the mayor to the council the director's report, if any, council proposal, and any director's alternative, with its recommendations. If the director has proposed an alternative ordinance or resolution, the planning commission shall make recommendations on both the council proposal and the director's alternative. The mayor shall submit the director's report, if any, council proposal, any director's alternative, and planning commission recommendations to the council within 30 days of receipt of the same from the planning commission.

(Added by Ord. 08-8; Am. Ord. 16-29)

Sec. 2-24.6 Action by council.

- (a) If the planning commission disapproves a council proposal to revise or amend the general plan, any development plan, or a zoning ordinance, or recommends a modification thereof not accepted by the council, or fails to make its report within a period of either 30 days after the close of its public hearing or 90 days after the commencement of processing by the commission pursuant to Section 2-24.5(a), whichever occurs first, the council may nevertheless consider and adopt such council proposal, but only by the affirmative vote of at least two-thirds of its entire membership.
- (b) If the director disapproves a council proposal to revise or amend the subdivision ordinance, or recommends a modification thereof not accepted by the council, or fails to submit the report and proposed ordinance to the council within the required deadline specified in Section 2-24.4(b), including any extensions approved by the council pursuant to Section 2-24.4(c), the council may nevertheless consider and adopt such council proposal, but only by the affirmative vote of at least two-thirds of its entire membership.

(Added by Ord. 08-8; Am. Ord. 16-29)

Sec. 2-24.7 Determination of submission date.

- (a) For the purposes of this part, a document shall be deemed submitted to the recipient when the document is received by the recipient.
- (b) The director shall cause the date and time of receipt by the department of planning and permitting of any of the following documents to be promptly stamped on the first page of the document, and notify the council in writing of the date of receipt:
 - (1) Any correspondence from the city clerk transmitting a copy of any introduced resolution for a council proposal pursuant to Section 2-24.3(a);
 - (2) Any correspondence from the council or any councilmember regarding the nature, preparation, or sufficiency of supporting documentation for the council proposal pursuant to Section 2-24.3(b); and
 - (3) Any correspondence from the city clerk transmitting a copy of any adopted resolution initiating a council proposal pursuant to Section 2-24.3(c).
- (c) The planning commission shall cause the date and time of receipt by the commission of any director's report on a council proposal, and accompanying proposed ordinance or resolution, to be promptly stamped on the first page of the report, and notify the council in writing of the date of receipt.
- (d) The city clerk shall promptly stamp the date and time of receipt by the council of any report or recommendation from the director or the planning commission, and accompanying proposed ordinance or resolution, on the first page of the report or recommendation.
- (e) If the date and time of receipt of a document is not stamped on a document, the document shall be deemed to be received by the recipient one day after the date set forth on the transmittal letter.

(Added by Ord. 08-8; Am. Ord. 16-29)

Sec. 2-24.8 Severability.

If any provision of this part, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this part which can be given effect without the invalid provision or application, and to this end, the provisions of this part are severable.

(Added by Ord. 08-8; Am. Ord. 16-29)

Part B. Central Coordinating Agency for Oahu**Sec. 2-24.9 Authority and purpose.**

This part is adopted pursuant to authority conferred by HRS Chapter 46. The purpose of this part is to improve the coordination and efficiency of the land use and planning control systems.

(Added by Ord. 16-29)

Sec. 2-24.10 Designation.

Pursuant to HRS Chapter 46, as amended, the department of planning and permitting is designated the central coordinating agency for the City and County of Honolulu.

(Added by Ord. 16-29)

Sec. 2-24.11 Powers, duties and functions.

The department of planning and permitting as the central coordinating agency shall:

- (a) Maintain and continuously update a repository of all laws, rules, and regulations, procedures, permit requirements and review criteria of all federal, state, and city and county agencies having control or regulatory powers over land development projects within the city and county and shall make said repository and knowledgeable personnel available to inform any person requesting information as to the applicability of the same to a particular project within the city.
- (b) Study the feasibility and advisability of utilizing a master application form to concurrently file applications for an amendment to a general plan and development plan, change in zoning, special management area permit and other permits and procedures required for land development projects in the city and county to the extent practicable with one master application.

- (c) Maintain and continuously update a master file for the city of all applications for building permits, subdivision maps, and land use designations of the state and city.
- (d) When requested by the applicant, the central coordinating agency shall endeavor to schedule and coordinate, to the extent practicable, any referrals, public informational meetings or any public hearings with those held by other federal, state and/or city and county commissions or agencies pursuant to existing laws pertaining to the city.
- (e) Assist the council in proposing amendments to Chapter 21 (LUO) as permitted by RCH Section 6-1513, by gathering and preparing the necessary supporting documentation sufficient to satisfy the usual requirements to commence processing the amendments.

(Added by Ord. 16-29)

Sec. 2-24.12 Rules and regulations.

The central coordinating agency shall compile the repository and adopt necessary rules pursuant to HRS Chapter 46, as amended. Drafts of rules and regulations to be promulgated by said agency to implement the functions specified in Section 2-24.11 shall be presented to the city council for its review prior to its finalization.

(Added by Ord. 16-29)

Sec. 2-24.13 Applicability.

All state and city and county departments, divisions, agencies and commissions, with control or regulatory powers over land development projects within the city shall cooperate with the central coordinating agency in making available and updating information regarding laws, rules and regulations, procedures, permit requirements and review criteria they enforce upon land development projects. The term "agency" shall be as defined by HRS Chapter 91.

(Added by Ord. 16-29)

Sec. 2-24.14 Appeals.

Appeals from actions by the director of planning and permitting in the administration of the rules and regulations adopted pursuant to this part shall be heard and decided by the city council. An appeal shall be sustained only if the council finds that the director's action was based on an erroneous finding of material fact, or that the director had acted in an arbitrary or capricious manner, or had manifestly abused the director's discretion.

(Added by Ord. 16-29)

Sec. 2-24.15 Validity.

The validity of any word, section, clause, paragraph, sentence, part or provision of Sections 2-24.9 to 2-24.14 shall not affect the validity of any other part of the aforesaid sections which can be given effect without the invalid part or parts.

(Added by Ord. 16-29)

Part C. Additional Powers, Duties and Functions

Sec. 2-24.16 Additional powers, duties, and functions.

- (a) The director shall be charged with the supervision, direction, and control of:
 - (1) The administration and enforcement of the building code, and all statutes and ordinances relating to the work of the department of planning and permitting.
 - (2) Inspecting, supervising, regulating, and approving the construction, alteration, repair and moving of buildings, structures and certain accessories related thereto, such as electrical, plumbing and gas systems, as are prescribed by the building code and other statutes and ordinances related to the work of the department of planning and permitting.
 - (3) Reviewing private subdivision plans and inspecting the construction of said subdivisions.

- (b) Reports and Records. The director shall:
- (1) Submit reports to the mayor, upon request, in addition to the submission of an annual report, covering the work of the department of planning and permitting during the preceding period. The director shall incorporate in the report a summary of recommendations as to desirable amendments to the building code and other related ordinances that the director administers and enforces; and
 - (2) Keep a permanent, accurate account of all fees and other moneys collected and received, the names of the persons upon whose account the same were paid, and the date and amount thereof as authorized by the director of budget and fiscal services.
- (c) Valuation. The determination of value or valuation under any of the provisions of the building code shall be made by the director.
- (d) Right of Entry. Upon presentation of proper credentials, the director or the director's duly authorized representatives may enter at reasonable times any building, structure or premises in the city to perform any duty imposed upon such persons by the building code.
- (e) Stop Order. Whenever any building work is being done contrary to the provisions of the building code or any other statutes or ordinances related to the work of the department of planning and permitting, the director may order the work stopped by notice, in writing, served on any person engaged in the doing or causing such work to be done, and such person shall forthwith stop such work until authorized by the director to proceed with the work.
- (f) For the purposes of this part, except as otherwise indicated, "director" means the director of the department of planning and permitting.
- (Added by Ord. 16-29)

Sec. 2-24.17 House numbering.

- (a) Authorization. The director or the director's designated assistant shall plan and regulate the numbering of all buildings in the city.
- (b) Method in Rural Areas. The director or such person's designated assistant in numbering buildings in areas outside of the districts of Honolulu, Pearl City, Lanikai, Kailua, Wahiawa, the city of Kapolei, and any urban areas specifically designated by the director as exempt from the provisions of this subsection shall adhere in all respects to the following system of numeration. The first digit of the building number shall correspond with the zone number of the appropriate tax map of the City and County of Honolulu; the second digit of the building number shall correspond to the section number of the tax map. The remaining digits of the building number shall be assigned in a manner to be determined by the director or such person's designated assistant.
- (c) Numbering of Entrances. All main entrances to buildings shall be numbered, and the director or the director's designated assistant shall assign to each building its proper number or numbers and furnish free of charge to the owner a certificate designating each number and location.
- (d) Duty of the Property Owner.
- (1) It shall be the duty of every person owning any building within the city to number the same or cause the same to be numbered correctly within 60 days after receipt of the certificate designating the assigned number, and to remove or efface any wrong number upon such building.
 - (2) All numbers shall be placed in such manner as to be readily seen from the street, roadway or lane, shall be of different color from the background on which they are placed, and shall be at least two inches in height. The number shall be placed in a permanent manner, chalk or other effaceable material not being permitted.
 - (3) All buildings shall be numbered at the expense of the owner.
 - (4) An owner of a building may supplement the building numbers required by this section with numbers on the curb fronting the building. Curb numbers shall be painted on the curb fronting the respective building in an area as close to the middle of such curb frontage as possible, measured from property line to property line, or, where a driveway exists, in the area immediately adjacent to the driveway, or in any other such manner as to make clear to which building the numbers refer. The numbers shall only be allowed in addition to the numbers required by this section and shall be painted in a manner to be determined by the director.

- (e) Penalty for Tearing, Defacing or Changing Number. Any person tearing down, defacing, or changing any number put up in accordance with this section shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than \$10.00 and not less than one dollar.
 - (f) Penalty for Failure to Conform to Requirements of Numbering. Any owner of a building in the city who neglects to number such buildings as provided in this section or who shall place, maintain, or allow to remain thereon any number other than that assigned by the director or the director's designated assistant after being notified in writing by the director or assistant, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five dollars nor more than \$20.00, and a further penalty of like sum for every two weeks thereafter that such property owner shall neglect or refuse to properly number such house or building or efface an improper number.
- (Added by Ord. 16-29)

Article 25. Department of Emergency Management*

Sections:

2-25.1 Director of Emergency Management.

Sec. 2-25.1 Director of Emergency Management.

- (a) The director of emergency management shall serve in that capacity on a full-time basis.
- (b) The director of emergency management shall be subject to the civil service laws.
- (c) Except as provided herein, the director of emergency management shall not be made subordinate to or answerable to any person or department with respect to state or city civil defense matters other than the mayor or the managing director.
- (d) The director of emergency management shall install, maintain and repair the civil defense siren warning system and the fire alarm and police communication systems, other than radio.

(Added by Ord. 87-97; Am. Ord. 16-29)

Article 26. Employment of Private Attorneys as Special Counsel to Represent the City, its Agencies, Officers and Employees

Sections:

- 2-26.1 Applicability.**
- 2-26.2 Definitions.**
- 2-26.3 Written contract required.**
- 2-26.4 Payment procedure.**
- 2-26.5 Quarterly reports required.**
- 2-26.6 Selection of legal representation.**
- 2-26.7 Control of fees—Reduction in hourly rates.**

Sec. 2-26.1 Applicability.

- (a) The provisions of this article shall apply to the employment of private attorneys retained as special counsel to represent the city, its agencies, and its officers and employees sued for acts done in their official capacities,

***Editor's Note:** Section 5 of Ordinance No. 87-97 provided that the article would take effect upon a determination by the council by resolution that "the current dispute concerning the city's civil defense administrator position has been concluded." In Resolution No. 93-246, the council determined that the dispute had been concluded and that the section of Ordinance No. 87-97 enacting the article would take effect upon the filing of a stipulation to dismiss with prejudice plaintiff's claims against all defendants in all capacities in Civil No. 88-1285-04. Such a stipulation was filed on August 13, 1993.

pursuant to Revised Charter, Section 5-204.3, when the corporation counsel has been disqualified from representing the city, its agencies, officers and employees.

- (b) The provisions of this article shall not apply to private attorneys retained:
- (1) To represent the mayor or any councilmember in impeachment proceedings as provided by Revised Charter, Section 5-204.3;
 - (2) Pursuant to the city's consultant contract procedures;
 - (3) As special deputies appointed by the corporation counsel with the approval of the city council to represent the city pursuant to Revised Charter, Section 5-204.1;
 - (4) As special counsel employed by the council to represent the council pursuant to Revised Charter, Section 3-107.5;
 - (5) To defend police officers and fire fighters as provided in state law;
 - (6) By the Honolulu liquor commission to act as an adviser to or represent the commission or any of its employees or investigators in litigation; or
 - (7) By the department of water to act as an adviser to or represent the department in litigation.
- (Added by Ord. 94-27; Am. Ord. 16-29)

Sec. 2-26.2 Definitions.

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

"City" means the municipal corporation known as the City and County of Honolulu.

"Agency" means any office, department, board, commission or other governmental unit of the city, including the council and agencies of the legislative branch of the city, and unless otherwise specified in this article, semi-autonomous agencies.

"Employee" means the same as defined in Revised Charter, Section 13-101.

"Lawsuit" means any civil action filed in a court of law which names the city, an officer, employee or agency of the city as a defendant.

"Officer" means the same as defined in Revised Charter, Section 13-101.

"Private attorney" means an attorney in private practice who is licensed to practice or permitted by law to practice law in the State of Hawaii, and includes the law firm for which the private attorney works and all the attorneys associated with the law firm. (Added by Ord. 94-27)

Sec. 2-26.3 Written contract required.

- (a) No private attorney retained as special counsel pursuant to Revised Charter, Section 5-204.3, to represent the city, an officer, employee or agency of the city, shall be paid for legal services rendered except pursuant to a formal written contract. The contract shall be dated and signed by the private attorney retained, by the director of budget and fiscal services, and by the corporation counsel, who shall approve as to form and legality. The contract shall also contain the signature of the officer, employee or head of the agency being represented by the private attorney, or in the case of special counsel representing the city or the city council, the signature of the chair of the council, as confirmation that the attorney has been selected by the officer, employee, agency or city.
- (b) The contract required by this section shall include, but need not be limited to, the following provisions:
- (1) The name of the case and civil number for which the private attorney is being retained and the name of the represented party;
 - (2) The commencement date of legal services, the approximate date when the case is expected to be concluded, and an estimate of the total cost of the case, exclusive of any appeal;
 - (3) The categories and names of the private attorneys, if known, assigned to the case who will provide legal services and the hourly rate charged by each attorney;
 - (4) The nature of the work and the rates to be charged to the city for work performed by non-attorneys, including persons on contract with the private attorney who perform specialized services such as investigators, expert witnesses, etc.;
 - (5) Special rates, if any, which differ from the hourly rate specified in subdivision (3) for legal work performed by attorneys;
 - (6) A description of court costs and out-of-pocket expenses which will be charged to the city;

(7) Express agreements that:

- (A) Should the case continue beyond the estimated date for conclusion, or the total cost exceed the estimated cost, the council shall be promptly informed in writing;
- (B) No appeal shall be taken or settlement entered into in the case without the prior approval of the council;
- (C) All settlement proposals received from the opposing party shall be transmitted to the council in a timely manner and within the time frame specified by the proposal, if any, for its acceptance or rejection;
- (D) When requested, the attorney will attend meetings with the council or a council committee to discuss matters relating to the case;
- (E) The attorney shall comply with all the applicable provisions of this article.

(c) A copy of the executed contract shall be transmitted to the city clerk after it has been signed by all parties.
(Added by Ord. 94-27; Am. Ord. 16-29)

Sec. 2-26.4 Payment procedure.

- (a) Private attorneys shall bill the city on a monthly basis for services rendered. The billing shall identify the attorneys rendering services, the number of hours or fraction of an hour each attorney has worked, a description of the legal work performed, and an itemization of the costs being billed and the date each cost was incurred.
- (b) All billings for payment of legal fees to a private attorney shall be submitted to the department of corporation counsel for review and approval. Prior to making payment, the corporation counsel shall notify the council in writing that a billing for payment has been received and the amount of billing. The notification shall specify that unless objected to in writing by a majority of the council, the billing shall be approved for payment within 30 days from the council's receipt of the corporation counsel's notice. Upon request of a councilmember, the corporation counsel shall transmit copies of the billing to the councilmember.
- (c) In the event a majority of the council objects to the payment of all or a portion of the billing, the corporation counsel shall bring the objection to the attention of the private attorney and attempt to resolve the matter to the satisfaction of the council. No payment to the private attorney shall be made for any billing for which an objection has been made by a majority of the council and not resolved.

(Added by Ord. 94-27)

Sec. 2-26.5 Quarterly reports required.

Beginning March 31 following the date of the enactment of this ordinance and every three months thereafter, the corporation counsel shall compile and transmit to the council, a report listing the names of all the cases, civil numbers and contract numbers for which a private attorney has been retained pursuant to the provisions of Revised Charter, Section 5-204.3, the date of commencement of each contract, the officer, employee, or agency being represented, the total amount of legal fees billed, the total amount of legal fees paid, and the amount of legal fees remaining unpaid.

(Added by Ord. 94-27)

Sec. 2-26.6 Selection of legal representation.

- (a) A single defendant named in a lawsuit.
 - (1) An officer or employee named. If an officer or employee of the city is sued for acts done solely in the performance of the officer's or employee's official duties, the officer or employee named shall be entitled to and shall select no more than one private attorney as special counsel to represent the officer or employee.
 - (2) An officer or employee named in official and personal capacities. If an officer or employee is sued for acts done in the performance of the officer's or employee's official duties and the complaint alleges that some acts were done outside the scope of the officer's or employee's official duties, if the council determines by resolution that:
 - (i) The acts for which the officer or employee is being sued were done solely in the officer's or employee's official capacity, and

- (ii) The city will indemnify the officer or employee for any and all liability arising out of the lawsuit, the officer or employee shall be entitled to and shall select a single attorney as special counsel to represent the officer or employee.
 - (3) Agency named. If an agency is named in the lawsuit, the agency shall be entitled to and shall select no more than one private attorney as special counsel to represent the agency.
 - (4) City named. If the city is named in the lawsuit, the council shall select no more than one private attorney as special counsel to represent the city.
 - (b) Multiple defendants named. If a lawsuit names multiple city defendants, each named defendant shall be entitled to and shall select no more than one private attorney to represent said defendant as special counsel, providing that the following shall apply to the following specified circumstances.
 - (1) If more than one officer or employee is named in a lawsuit for acts done in the performance of the officers' or employees' official duties, unless a conflict of interest arises between two or more of the officers and employees, the officers and employees shall select a single private attorney as special counsel to represent all the officers and employees jointly. If the officers and employees cannot agree on a single private attorney, the council by resolution, shall select a private attorney to represent the officers and employees.
 - (2) If more than one officer or employee is sued for acts done in the performance of the officers' or employees' official duties and the complaint alleges that some acts were done outside the scope of the officers' or employees' official duties, if the council determines by resolution that:
 - (i) The acts for which the officers and employees are being sued were done solely in the performance of the officers' and employees' official duties, and
 - (ii) The city will indemnify the officers and employees for any and all liability arising out of the lawsuit, unless a conflict of interest arises between two or more of the officers and employees, the officers and employees shall be entitled to and shall select a single private attorney to represent all the officers and employees jointly. If the officers and employees cannot agree on a single private attorney, the council by resolution shall select a private attorney to represent the officers and employees.
 - (3) If any agency is named in a lawsuit and one or more officers or employees of the agency are also named for acts done in the performance of their official duties, unless a conflict of interest arises between the agency and one or more of the officers and employees, the agency and the named officers and employees shall select a single private attorney to represent the agency and all the officers and employees jointly. If the agency, officers and employees cannot agree on a single private attorney, the council by resolution shall select a private attorney to represent the agency, officers and employees.
 - (4) If the city is named in a lawsuit and one or more officers or employees are also named for acts done in the performance of their official duties, unless a conflict of interest arises between the city and one or more of the officers and employees, the council shall select a single private attorney to represent the city and all the officers and employees jointly.
 - (5) If the city is named in the lawsuit and an agency is named in the same lawsuit, unless a conflict of interest arises between the agency and the city, the council shall select a single attorney as special counsel to represent the city and the named agency jointly.
 - (c) No private attorney shall be paid by the city to represent an officer or employee of the city sued for acts done outside the scope of the officer's or employee's official duties, except as provided by Sections 2-26.6(a)(2) and 2-26.6(b)(2). If the corporation counsel is disqualified because of a conflict of interest from participation in the lawsuit, the council shall make the determination as to whether the matters raised in a lawsuit relate to an officer's or employee's official powers, duties and responsibilities.
 - (d) Nothing herein shall preclude an officer or employee from employing, at the officer's or employee's own expense, additional private counsel to represent the officer or employee.
- (Added by Ord. 94-27)

Sec. 2-26.7 Control of fees—Reduction in hourly rates.

Reasonable fees billed to the city by private attorneys shall be paid at the rates specified in the written contract; except, where the fees billed, exclusive of court costs and out-of-pocket expenses, exceed the following amounts, the hourly rates payable to each attorney or category of attorneys specified in the written contract referred to in Sec. 2-26.3 and any special hourly rates specified in said contract shall be reduced by the following percentages and applied to fees billed in excess of the threshold amounts:

- (a) Where fees billed exceed \$100,000.00, the hourly rates shall be reduced by five percent.
- (b) Where fees billed exceed \$300,000.00, the hourly rates shall be reduced by 10 percent.
- (c) Where fees billed exceed \$500,000.00, the hourly rates shall be reduced by 20 percent.
- (d) Where fees billed exceed \$750,000.00, the hourly rates shall be reduced by 25 percent.
- (e) Where fees billed exceed \$1,000,000.00, the hourly rates shall be reduced by 30 percent.

(Added by Ord. 94-27)

Article 27. Volunteer Services Program**Sections:**

- 2-27.1 Policy.**
- 2-27.2 Definitions.**
- 2-27.3 Volunteer services program—Established—Nondiscrimination—Coordinator.**
- 2-27.4 Agency rights and responsibilities.**
- 2-27.5 Volunteer benefits.**
- 2-27.6 Volunteer policing program.**
- 2-27.7 Rules.**

Sec. 2-27.1 Policy.

It is the policy of the City and County of Honolulu to:

- (a) Recognize the volunteer spirit in our citizenry as a fundamental ingredient to our democratic form of government;
- (b) Adhere to the principle that every citizen regardless of race, color, ancestry, politics, religion, sex, age, economic condition, physical or mental disability, or marital status has the right to participate voluntarily in city government;
- (c) Foster the use of volunteer services in city government to supplement, strengthen and support the ability of city agencies to accomplish their missions;
- (d) Demonstrate the vital role that volunteers can offer in assisting and augmenting city services;
- (e) Become a model employer by developing a program on the use of volunteer services and effectively using volunteers; and
- (f) Take a positive and active role in promoting the use of volunteers by city agencies in a manner that would benefit the volunteers as well as the agencies.

(Added by Ord. 95-14)

Sec. 2-27.2 Definitions.

For the purposes of this article:

"Agency" means any city agency within the executive branch, excepting the prosecuting attorney and the board of water supply.

"Chief of police" means the chief of the Honolulu police department or the chief's authorized designee.

"Laws" includes Hawaii state statutes, city ordinances, and Hawaii state and city rules adopted pursuant to HRS Chapter 91.

"Volunteer" means a person or organization who is willing to provide any of the following services with no monetary or material gain:

- (1) Occasional service consisting of one-time, on-call or single-task service to any agency without receipt of any compensation, except as provided in this article; or
- (2) Regular service consisting of activities on an ongoing or continuous basis to an agency without receipt of any compensation except as provided in this article; or
- (3) Stipend service consisting of the receipt of a support allowance which then enables a person to provide voluntary service to an agency. The allowance may be for food, mileage and other related expenses but does not reflect compensation for work performed.

(Added by Ord. 95-14; Am. Ord. 97-02, 03-40)

Sec. 2-27.3 Volunteer services program—Established—Nondiscrimination—Coordinator.

- (a) A volunteer services program shall be established within a city department designated by the mayor. The director of the designated department may adopt rules to carry out the purposes of this article.
- (b) Except as otherwise provided in this article, no person shall, on the basis of sex, age, race, color, ancestry, religion, national origin, marital status, economic condition, physical or mental disability, or politics, be excluded from participation in the volunteer services program.
- (c) The volunteer services program shall be headed by a volunteer services coordinator who shall be charged with the following duties:
 - (1) In cooperation with each city agency, identify tasks that may be appropriately performed by volunteers;
 - (2) In cooperation with the department of human resources, develop written guidelines for the recruitment, screening, supervision and utilization of volunteers by city agencies;
 - (3) Serve as a central clearinghouse for volunteer recruitment for the city;
 - (4) Assist each agency in training existing staff on how to supervise, assist and support agency volunteers;
 - (5) Maintain a list of available volunteers and a list of jobs for which agencies are seeking volunteers;
 - (6) In cooperation with the director of budget and fiscal services, establish a risk management program aimed at minimizing the risk of liability to the city due to the volunteer service program while protecting volunteers from liability when performing services as city volunteers; and
 - (7) Prepare and submit an annual report to the council with a breakdown of the number of volunteers used by each agency, the number of volunteer service hours donated to each agency, the types of tasks performed by volunteers in each agency, and the cost of using volunteers by each agency.
- (d) Any volunteer used by the city shall be excluded from the civil service system of Revised Charter Article VI, Chapter 11, and any other public employee benefit program except those provided in this article.

(Added by Ord. 95-14; Am. Ord. 03-40)

Sec. 2-27.4 Agency rights and responsibilities.

- (a) An agency has the right to decline any offer of voluntary services, or if accepted, to release subsequently the volunteer whose services are no longer needed or whose performance is found unacceptable.
- (b) An agency utilizing the services of volunteers has the responsibility to:
 - (1) Use volunteers to extend city services without displacing regular, full-time employees;
 - (2) Provide volunteers with the orientation and training necessary to do work for the agency;
 - (3) Provide each volunteer with a designated supervisor to assist and direct the work of the volunteer;
 - (4) Allow volunteers to serve on a trial or probationary period for a specified period;
 - (5) Assign volunteers to tasks that are suited to their respective skills or geared to develop new skills; and
 - (6) Recognize volunteers for their services to the agency.

(Added by Ord. 95-14)

Sec. 2-27.5 Volunteer benefits.

- (a) An agency may reimburse volunteers for out-of-pocket costs incurred in carrying out their volunteer duties, consistent with the provisions of subsection (b), as deemed necessary to assist volunteers in performing their services.
- (b) Volunteer benefits may include, within the limits of an agency's budget, the following:
 - (1) Meals without charge or the cost thereof reimbursed;

- (2) Transportation costs including parking fees, bus and taxi fares to cover expenses incurred in carrying out a volunteer's duties;
 - (3) Out-service training and attendance at conferences pertaining to a volunteer's assigned duties; and
 - (4) Other reasonable expenses incurred by volunteers in connection with their assignments.
- (c) Volunteers shall not be deemed "employees of the city" when acting for an agency in their capacity as volunteers.
- (d) Personal liability insurance coverage may be furnished for volunteers.
- (Added by Ord. 95-14)

Sec. 2-27.6 Volunteer policing program.

- (a) There is established within the Honolulu police department, and under the supervision of the chief of police, a volunteer policing program to utilize volunteers to assist the Honolulu police department in the enforcement of certain city and state laws related to abandoned and derelict vehicles and parking, including parking for persons with disabilities, and other laws designated by the chief of police.
- (b) The chief of police is authorized to commission volunteers as special enforcement officers to issue citations on public and private property to persons violating certain city and state laws relating to abandoned and derelict vehicles, parking, including parking for persons with disabilities, and other laws designated by the chief of police.
- (c) The chief of police, in cooperation with the directors of other city agencies as appropriate, shall:
- (1) Establish minimum qualifications for persons wishing to volunteer their services to become special enforcement officers and application procedures for volunteers;
 - (2) Provide a required training program for police volunteers totaling not less than twenty hours, which shall include, but not be limited to training on:
 - (A) pertinent city and state laws;
 - (B) identifying violators and issuing citations;
 - (C) use of communication and other necessary equipment;
 - (D) procedures to follow in the event of confrontations with suspected violators; and
 - (E) providing testimony in court to enforce citations;
 - (3) Grant commissions to volunteers who have successfully completed the training program, and who are qualified as determined by the chief of police to become special enforcement officers; and
 - (4) Provide for supervision and monitoring of the special enforcement officers while such officers are on duty.
- (d) Each special enforcement officer shall agree to:
- (1) Work a minimum number of hours per week, as determined by the chief of police; and
 - (2) Serve at locations designated by the chief of police.
- (e) Each special enforcement officer who is assigned duties under this program shall:
- (1) Complete a volunteer application;
 - (2) Be a United States citizen, a resident of the city, and at least 21 years of age;
 - (3) Pass a background check conducted by the chief of police, which may include a criminal background check;
 - (4) Possess a valid State of Hawaii driver's license;
 - (5) Complete the training program established by the chief of police; and
 - (6) Be provided with an identification card.
- (f) The chief of police shall coordinate recruitment of volunteers.
- (Added by Ord. 03-40; Am. Ord. 14-25)

Sec. 2-27.7 Rules.

The chief of police, in cooperation with the directors of other city agencies, may adopt rules to implement the volunteer policing program.

(Added by Ord. 03-40)

**Article 28. Prohibition on Take-home Use of City Motor Vehicle by
Executive Agency Head or Deputy Head**

Sections:**2-28.1 Definitions.****2-28.2 Prohibition on take-home use of city motor vehicle by executive agency head or deputy head— Exceptions.****2-28.3 Applicability of article.****Sec. 2-28.1 Definitions.**

For the purpose of this article:

"City motor vehicle" means a motor vehicle owned or leased by the city.

"Executive agency" means any agency of the executive branch of city government, excluding the board of water supply and the Honolulu Authority for Rapid Transportation.

"Executive agency head" means the director or other officer serving as the administrative head of an executive agency.

"Executive agency deputy head" or "deputy head" means the officer serving as a deputy head of an executive agency.

"Use of a city motor vehicle on a take-home basis" means the use of a city motor vehicle by a person for the following:

- (1) Travel between the person's work and home; and
- (2) Other travel incidental to travel between the person's work and home.

(Added by Ord. 96-66; Am. Ord. 97-02, 16-29)

Sec. 2-28.2 Prohibition on take-home use of city motor vehicle by executive agency head or deputy head—Exceptions.

- (a) Except as otherwise provided under subsection (b), an executive agency head or deputy head shall not be allowed to use a city motor vehicle on a take-home basis.
- (b) The prohibition of subsection (a) shall not apply to the following:
 - (1) The police chief or any deputy police chief;
 - (2) The fire chief or deputy fire chief;
 - (3) The medical examiner or first deputy medical examiner; and
 - (4) The director of emergency management.

(Added by Ord. 96-66; Am. Ord. 16-29)

Sec. 2-28.3 Applicability of article.

- (a) This article applies only to the use of a city motor vehicle on a take-home basis by an executive agency head or deputy head.
- (b) This article does not apply to the following:
 - (1) The use of a city motor vehicle by an executive agency head or deputy head on other than a take-home basis; or
 - (2) The use of a city motor vehicle by any other city officer or employee, including the mayor.

Other applicable law, ordinance, rule, or policy shall govern the use of a city motor vehicle in a manner described under this subsection.

(Added by Ord. 96-66)

Article 29. Department of Community Services**Sections:****2-29.1 Definitions.****2-29.2 Prohibition on presale or prelease of dwelling unit in proposed housing project on city real property before council approval.****Sec. 2-29.1 Definitions.**

For the purpose of this article, "department" means the department of community services.

(Added by Ord. 97-24; Am. Ord. 16-29)

Sec. 2-29.2 Prohibition on presale or prelease of dwelling unit in proposed housing project on city real property before council approval.

(a) For the purpose of this section:

- (1) "Development agreement" means the agreement or contract between the city and a developer concerning the development of a housing project on city real property to be leased or otherwise conveyed to the developer.
- (2) "Presale of a dwelling unit" means the sale of a dwelling unit by its developer to a purchaser before the commencement of construction of the unit.
- (3) "Prelease of a dwelling unit" means the lease of a dwelling unit by its developer to a lessee before the commencement of construction of the unit.
- (4) "Proposed housing project on city real property" means a housing project proposed to be developed by a private person on city real property to be leased or otherwise conveyed to that person.

(b) The department shall not allow the presale or prelease of a dwelling unit in a proposed housing project on city real property before council approval of the pertinent development agreement.

(c) A prospective developer of a proposed housing project on city real property shall not engage in or authorize the presale or prelease of a dwelling unit in the proposed project before council approval of the pertinent development agreement.

(d) Subsections (b) and (c) shall not prohibit the following:

- (1) The presale or prelease of a dwelling unit in a proposed housing project after council approval of the pertinent development agreement; or
- (2) The presale or prelease of a nondwelling unit in a proposed housing project at any time.

(Added by Ord. 97-24)

Article 30. Personal Services Contracts**Sections:****2-30.1 Definitions.****2-30.2 Review and competitive procurement of personal services contracts.****2-30.3 Public notice of employer-employee contracts.****2-30.4 Reporting of employer-employee contracts.****2-30.5 Public record-keeping requirements.****Sec. 2-30.1 Definitions.**

For the purposes of this article, the following terms shall have the following respective meanings except as otherwise indicated:

"Department" means the department of budget and fiscal services.

"Director" means the director of budget and fiscal services.

"Employer-employee contract" means a contract entered into by an executive agency of the city pursuant to Revised Charter Section 6-1103(f), (g), (h), in which the contractor is paid on a payment schedule applicable to regular employees. This term includes any amendment to, extension or renewal of said contract.

"Executive agency" means the same as that term is defined in Revised Charter Section 13-101.

"Independent contractor" means a person who provides independent services of a technical, expert, or professional nature to the city, who may lawfully provide such services concurrently with other private employment, if any, who is not supervised or directed on a daily basis by a city officer or employee, and who is not paid on a payment schedule applicable to regular employees.

"Contractor" means any individual, corporation, trust, partnership, or other business or governmental entity. (Added by Ord. 97-54; Am. Ord. 16-29)

Sec. 2-30.2 Review and competitive procurement of personal services contracts.

- (a) The director shall review all employer-employee contracts requested by an executive agency prior to contract execution and determine whether the contract is appropriate or whether the personal services to be procured would be more appropriately procured by a contract with an independent contractor. This determination shall be made in accordance with written guidelines established by the director for all executive agencies regarding the types of personal services that shall be competitively procured.
- (b) If the director determines that a proposed employer-employee contract is more appropriately procured by a contract with an independent contractor, the director shall so notify the executive agency making the request and determine the proper method of procurement.
- (c) No employer-employee contract requested by an executive agency shall be entered into without the approval of the director.

(Added by Ord. 97-54; Am. Ord. 16-29)

Sec. 2-30.3 Public notice of employer-employee contracts.

The director shall post or cause to be posted a public notice of the request to enter into an employee-employer contract not less than seven days before final approval of the request. The notice shall be posted in an area accessible to the public.

(Added by Ord. 97-54; Am. Ord. 16-29)

Sec. 2-30.4 Reporting of employer-employee contracts.

- (a) Within 30 days following the end of each fiscal year, the director shall submit to the council and file with the city clerk a report regarding all employer-employee contracts of the executive agencies of the city during the fiscal year just ended. An employer-employee contract shall be included in the report for the fiscal year if:
 - (1) the contract was executed, extended, amended or renewed during the fiscal year, or (2) the city made any payments pursuant to such contract during the fiscal year.
- (b) The report required by subsection (a) shall be organized by the executive agency requesting the employer-employee contract and, for each contract, shall include the following information:
 - (1) The executive agency that procured the services of the contractor;
 - (2) A brief statement of the nature of the personal services provided to the city under the contract and justification for procuring such services through an employer-employee contract;
 - (3) The name of the contractor;
 - (4) A statement of the qualifications of the contractor to provide the contracted services;
 - (5) A statement of whether the information provided relates to the original contract or to an amendment, extension or renewal of the contract;
 - (6) The total amount of compensation to be paid to the contractor;
 - (7) A statement of whether the contractor is working on a full- or part-time basis, and if the latter, the amount of hours per week that the contractor is working;
 - (8) The time period and duration of the contract;
 - (9) A statement of which subsection of Revised Charter Section 6-1103 provided the basis for the contract, amendment, renewal, or extension;

- (10) A statement as to whether, in the immediately preceding fiscal year, the contractor was engaged in the same or any other employer-employee contract with the city;
 - (11) A statement as to whether, in the immediately preceding fiscal year, the executive agency engaged the same or a different contractor to perform the same or similar services for the agency;
 - (12) A statement as to whether funds are included in the city's executive budget ordinance for the current fiscal year for the same or similar contract, and if so, whether the contract is with the same contractor.
- (c) If a contractor provided personal services pursuant to more than one employer-employee contract with the city during the fiscal year, the report required by subsection (a) shall specify the number of contracts entered into, the type and service provided and the aggregate compensation received by the contractor under the various employer-employee contracts.
- (Added by Ord. 97-54; Am. Ord. 16-29)

Sec. 2-30.5 Public record-keeping requirements.

- (a) The department shall keep a record of all employer-employee contracts, by executive agency, for a period of at least five years. Each record shall contain at least the following information:
- (1) The executive agency that procured the services of the contractor;
 - (2) The type of services provided by the contractor;
 - (3) The name of the contractor;
 - (4) The total amount of compensation paid the contractor; and
 - (5) The time period and duration of the contract.
- (b) Records of employer-employee contracts required to be kept under subsection (a) shall be made available for public inspection; provided that no information shall be disclosed to the public which is prohibited from disclosure by HRS Chapter 92F or any other state, city or federal privacy law.
- (Added by Ord. 97-54; Am. Ord. 16-29)

Article 31. Seals and Logotypes of Executive Agencies

Sections:

- 2-31.1 Adoption of official seals and logotypes.**
- 2-31.2 Unauthorized use of seals and logotypes—Penalty.**

Sec. 2-31.1 Adoption of official seals and logotypes.

- (a) Executive agencies of the City and County of Honolulu are authorized to adopt official seals or logotypes. A copy of any official seal or logotype adopted by a city agency shall be filed with the office of the city clerk within 30 days of its adoption. For the purposes of this article, "logotype" includes any trade name, trademark, service mark, nickname, motto, slogan, abbreviation, word, logo, logogram, logographic, logotype, symbol, design, graphic depiction, or other work or designation that may be associated with the city or an executive city agency, facility, property, operation, or activity.
- (b) The seals and logotypes may be used only for:
- (1) Official governmental purposes;
 - (2) City-sponsored articles or activities when the sponsorship of the article or activity and the use of the seal or logotype on the article or for the activity is approved by the director; or
 - (3) Revenue-raising activities authorized pursuant to subsections (c) and (d).
- (c) The department, to the extent deemed necessary and practicable, shall register any official seal or logotype adopted by an executive city agency with the State of Hawaii and take any additional measures required by law to ensure the city's exclusive ownership of the seal or logotype. As the exclusive owner of an agency's seal or logotype, the city, through the department, may enter into contracts with private parties for the manufacture, fabrication, production, reproduction, marketing, distribution, and sale of articles or materials imprinted with the agency's seal or logotype for the purpose of raising revenues or securing goods, materials, supplies or equipment at no or reduced costs for the city, nonprofit city support or friends group or city employee

organizations. Any goods, materials, supplies or equipment received under this article shall not be deemed to be a gift or donation within the meaning of Revised Charter of Honolulu Section 13-113.

- (d) The city may provide for an exclusive or nonexclusive license to use an agency's official seal or logotype; provided that, in contracting for an exclusive license for the use of an agency's seal or logotype, the director, to the extent feasible, shall follow procedures similar to the procurement procedures provided for in HRS Chapter 103D and the rules adopted pursuant thereto; and provided, further, that such procedures need not be applied to any exclusive license granted to a nonprofit city support or friends group or city employee organization. In granting a license, the director shall establish an appropriate duration for the license. Any license for exclusive use of an agency's official seal or logotype shall not preclude the use of the agency's official seal or logotype for official governmental purposes.
- (e) The department shall maintain a copy of all contracts relating to the use of an official seal or logotype of an executive city agency and make them available for public inspection.
- (f) The director shall provide a report to the city council on or before January 1 of each year relating to official seals and logotypes registered pursuant to subsection (c).
- (g) For the purposes of this article, "department" means the department of budget and fiscal services, and "director" means the director of budget and fiscal services.

(Added by Ord. 98-43; Am. Ord. 16-29)

Sec. 2-31.2 Unauthorized use of seals and logotypes—Penalty.

Whoever knowingly manufactures, fabricates, produces, reproduces, markets, distributes, sells, or purchases for sale any article or material imprinted with the official seal or logotype of a city executive agency or knowingly displays the official seal or logotype of a city executive agency, or any facsimile thereof, in any display, advertisement, poster, or circular for the purpose of conveying or in a manner reasonably calculated to convey a false impression of sponsorship or approval by the City and County of Honolulu or any executive agency thereof, except for a city-sponsored article, material or activity approved by the director in accordance with this article, shall be guilty of a misdemeanor.

(Added by Ord. 98-43; Am. Ord. 16-29)

Article 32. City Video Monitoring of Public Activity

Sections:

- 2-32.1 Definitions.**
- 2-32.2 Overt video monitoring of public activity.**
- 2-32.3 Authorization for certain overt video monitoring of public activity from fixed locations.**
- 2-32.4 Authorization for other overt video monitoring of public activity.**
- 2-32.5 Use, storage, and disposition of video monitoring information and tapes.**
- 2-32.6 Third party rights.**

Sec. 2-32.1 Definitions.

As used in this article, unless another meaning is manifestly clear:

"Chief" means the chief of police of the Honolulu police department or the chief's designee.

"Chinatown area" means the area generally bounded by Nuuanu Stream, Vineyard Boulevard, and Bishop Street, extended to meet Vineyard Boulevard and Honolulu Harbor.

"General area" includes a district, subdistrict, neighborhood, street, or intersection.

"Illumination" means making visible details not visible to the naked eye because of poor lighting conditions.

"Law enforcement official" means an officer of the Honolulu police department; a similar officer or a criminal investigator employed by any federal, state or local government agency; the attorney general, the prosecuting attorney, the corporation counsel or any of their deputies; or a similar attorney employed by any federal, state or local government agency for purposes of criminal prosecutions.

"Legitimate law enforcement objective" means the detection, investigation, prevention or deterrence of crime, protection of a person or property from harm, or the apprehension and prosecution of a suspected criminal or traffic violator. An action is "reasonably likely to achieve a legitimate law enforcement objective" if there is an articulable reason for concluding that one of these objectives may be met by taking the action.

"Legitimate public purpose" means the detection, investigation, prevention or deterrence of violations of federal, state or city regulatory requirements, the evaluation of city programs and operations, the training of city personnel, the investigation of claims involving the city, and other activities supporting public functions. An action is "reasonably likely to achieve a legitimate public purpose" if there is an articulable reason for concluding that one of these objectives may be met by taking the action.

"Officer" means an officer of the Honolulu police department.

"Overt monitoring" means monitoring of which a reasonable person would be aware.

"Private activity, condition or location" means any activity, condition or location when the place where it occurs or exists and other relevant considerations afford it a constitutionally protected reasonable expectation of privacy with respect to the person asserting the claim of an expectation of privacy. A place is "private" if physical entry therein would be an intrusion upon the constitutionally protected reasonable expectation of privacy of the person asserting the claim of an expectation of privacy. The term "private activity, condition or location" shall not be deemed to include any streets, sidewalks or other places owned or controlled by the city or another governmental entity or streets, sidewalks, or other places owned or controlled by private entities but open to the general public.

"Public activity" means any activity, condition or location that is not a private activity, condition or location.

"Public buildings or other facilities" means any buildings or other facilities or portion thereof owned or controlled by the city whether such buildings or other facilities or portions thereof are managed by the city or a private entity, including, but not limited to, the sidewalks, driveways, and grounds immediately adjacent to public buildings or other facilities

"Responsible city official" means the chief with respect to the overt video monitoring of public activity from fixed locations to be implemented pursuant to Sections 2-32.3(a)(1), (2) and (5), the director and chief engineer of the department of facility maintenance with respect to the overt video monitoring of public activity from fixed locations to be implemented pursuant to Section 2-32.3(a)(3), and the director of the department of transportation services with respect to overt video monitoring of public activity from fixed locations to be implemented pursuant to Section 2-32.3(a)(4). For purposes of Section 2-32.4, "responsible city official" means the chief or the head of any other city department or agency.

"Telescopic" means making visible details not visible to the naked eye because of distance.

"Video monitoring" means the use of a lawfully positioned camera as a means of viewing or recording activities, conditions or locations other than those occurring within the sight or immediate vicinity of the person conducting the video monitoring.

"Video monitoring tapes" include any film, photographs, slides, videotapes, diskettes, or other recorded representations resulting from overt video monitoring of public activity.

(Added by Ord. 98-59)

Sec. 2-32.2 Overt video monitoring of public activity.

No overt video monitoring of public activity shall be conducted by the city or under the sponsorship of the city except as authorized by this article.

(Added by Ord. 98-59)

Sec. 2-32.3 Authorization for certain overt video monitoring of public activity from fixed locations.

- (a) Overt video monitoring of public activity conducted by the city or under the sponsorship of the city from fixed locations is specifically authorized in the following areas and for the following purposes:
- (1) In the Waikiki special district as defined in Section 21-9.80-2 for purposes of the general prevention and deterrence of criminal activity;
 - (2) In the Chinatown area for purposes of the general prevention and deterrence of criminal activity;
 - (3) In and around public buildings or other facilities for the purposes of the general prevention and deterrence of criminal activity;
 - (4) On streets or roads under the jurisdiction of the city for purposes of facilitating the efficient flow of traffic;

- (5) On streets or roads under the jurisdiction of the city for the purposes of detecting, investigating, preventing or deterring traffic violations; and
 - (6) In such other areas or for such other purposes as are designated by the council, by resolution, following the holding of a public hearing at which members of the public may express their views on the proposed monitoring and the proposed general area where the monitoring shall take place, notice of which public hearing shall have been given to the public at least 10 days in advance of the public hearing in a publication meeting the State of Hawaii's requirements for the publication of public notice.
- (b) In implementing overt video monitoring of public activity authorized by subsection (a), the responsible city official shall act in accordance with the following standards and guidelines:
- (1) The overt video monitoring of public activity authorized by subdivisions (a)(1) and (2) shall be conducted in partnership with the affected communities. To the extent practicable, the overt video monitoring of public activity in these areas shall be conducted by community volunteers.
 - (2) Cameras may use telescopic, zoom, panoramic, illumination, pan, tilt, and rotate capabilities.
 - (3) Cameras shall be installed in such a manner that they are not likely to view a private activity, condition or location.
 - (4) All individuals conducting or supervising video monitoring shall receive training and written instructions in the proper operation of the video monitoring equipment and the applicable requirements of this chapter.
 - (5) Prior to initiating overt video monitoring of public activity in any area or public building or other facility, the responsible city official shall publish or cause to be published a notice of such monitoring in a newspaper of general circulation in the city at least 10 days prior to implementation of such monitoring. The notice shall include a general description of the area or building to be monitored, the general location of the cameras, the general capability of the cameras, and a statement that the public may submit written comments to the council and the responsible city official relating to the monitoring. Prior to materially changing the location of any camera, changing the general capability of cameras, or with respect to the overt video monitoring of public activity authorized by subdivisions (a)(1) and (2), terminating the video monitoring on a permanent basis, the responsible city official shall publish or cause to be published a notice of such change in a newspaper of general circulation in the city at least 10 days prior to implementing such change, with a statement that the public may submit written comments to the council and the responsible city official relating to the monitoring.
 - (6) The responsible city official shall post or cause to be posted a reasonable number of signs in the affected area or in or around the public building or other facility advising the public that the area or public building or other facility is subject to video monitoring of public activity; provided that such signs shall not be required for video monitoring conducted pursuant to subdivisions (a)(4) and (5).
 - (7) The responsible city official may, at any time, discontinue the overt video monitoring of public activity, including, but not limited to, discontinuation during certain hours of the day or days of the week and discontinuation for purposes of maintenance and repair or where there are not an adequate number of community volunteers or city personnel to conduct such monitoring.
 - (8) The responsible city official shall provide an annual report to the council on activities relating to the overt video monitoring of public activity under this section no later than January 15 of each year.

(Added by Ord. 98-59)

Sec. 2-32.4 Authorization for other overt video monitoring of public activity.

- (a) No overt video monitoring of public activity, other than overt video monitoring of public activity from fixed locations specifically authorized by Section 2-32.3, shall be conducted by the city or under the sponsorship of the city except where the responsible city official finds that it:
- (1) Is reasonably likely to achieve a legitimate law enforcement objective or other legitimate public purpose; and
 - (2) Is not likely to view a private activity, condition or location.
- An officer of the Honolulu police department may make the determinations required under the preceding sentence when there are exigent circumstances.

- (b) Overt video monitoring of public activity pursuant to this section shall be subject to the standards and guidelines set forth in Section 2-32.3(b)(4).
- (c) Overt video monitoring of public activity pursuant to this section shall be conducted for the duration reasonably necessary as determined by the responsible city official.

(Added by Ord. 98-59)

Sec. 2-32.5 Use, storage, and disposition of video monitoring information and tapes.

- (a) Except as otherwise required by HRS Chapter 92F, ordered by the office of information practices pursuant to HRS Chapter 92F or ordered by a court of competent jurisdiction, information obtained from overt monitoring of public activity and video monitoring tapes shall be used only for legitimate law enforcement objectives and traffic management and other legitimate public purposes and shall be disclosed only to city personnel or community volunteers conducting or supervising the video monitoring, law enforcement officials, city personnel involved in the evaluation of city programs or operations or training of city personnel, and to individuals involved in or potentially involved in criminal or civil proceedings to be brought by a governmental entity, including, but not limited to, victims or perpetrators or suspected or potential victims or perpetrators of criminal activity. Nothing contained in this paragraph shall be construed as prohibiting the disclosure or use of information obtained from overt monitoring of public activity under any of the subdivisions of Section 2-32.3(a) or under Section 2-32.4 for (i) the detection, investigation, prosecution or adjudication of criminal activity, traffic infractions, or regulatory violations, violations of conditions of bail, parole or probation, or violations of court orders, or (ii) the detection, investigation, discovery and trial of alleged violations of the civil legal rights of victims of criminal activity other than traffic infractions, including, but not limited to, property damage claims resulting from criminal activities. Nothing contained in this paragraph shall be construed as prohibiting the disclosure or use of information obtained from overt monitoring of public activity under Section 2-32.3(a)(4) to the media for purposes of advising the public of prevailing traffic conditions.
- (b) Video monitoring tapes shall be stored in secure locations so as to limit access to such tapes to the purposes specified in subsection (a).
- (c) Except where the responsible city official finds that there is a need to maintain a specific video monitoring tape for a longer period for a purpose specified in subsection (a), video monitoring tapes shall be erased or destroyed within thirty days after they are taken or made.

(Added by Ord. 98-59)

Sec. 2-32.6 Third party rights.

Nothing contained in this article is intended to or shall in any manner create or afford any rights, privileges or benefits not otherwise recognized by law, including, but not limited to, any right to suppress evidence because of an alleged violation of the requirements of this article or any claim against the city for invasion of privacy or failure to continuously maintain overt video monitoring of public activity. Rather, this article is intended as internal policy guidance to the affected city departments in order to ensure that overt monitoring of public activity decisions is based on all relevant considerations and information.

(Added by Ord. 98-59)

Article 33. First Source Program**Sections:**

- 2-33.1 Definitions.**
- 2-33.2 Effect.**
- 2-33.3 First source register.**
- 2-33.4 First source agreement required.**
- 2-33.5 Rules.**
- 2-33.6 Department's report.**
- 2-33.7 Enforcement.**

Sec. 2-33.1 Definitions.

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

"Beneficiary" means an entity which enters into a contract with the city or which receives a grant from the city, but excludes an entity which is a nonprofit organization or a government entity or quasi-government entity.

"Contract" means a written agreement between the city and a beneficiary which will provide services for compensation to or on behalf of the city or which will construct capital improvements for or on behalf of the city.

"Department" means the department of community services.

"Director" means the director of community services, or the director's designee.

"First source agreement" means the provisions in the contract required by Section 2-33.4.

"First source program" means the program established by this article to assist residents to find only nonmanagerial and nonprofessional employment.

"Grant" means public funds given to a beneficiary based on merit or need to stimulate and support the beneficiary's activities for the benefit of the community.

"Resident" means an individual domiciled in the State of Hawaii.

"WorkHawaii program" means the work training and job placement program administered by the department, and shall include any subsequent work training and job placement program administered by the department.

(Added by Ord. 99-71)

Sec. 2-33.2 Effect.

- (a) This article shall not affect any contract which existed prior to December 16, 1999.*
- (b) A beneficiary shall not be required to undertake any action required by the provisions of this article if the beneficiary can establish, to the satisfaction of the director as stated in the rules, that it is fulfilling the purpose of this article.
- (c) Notwithstanding any provision in this article to the contrary, the beneficiary shall make all hiring decisions in the beneficiary's sole and absolute discretion.

(Added by Ord. 99-71)

Sec. 2-33.3 First source register.

- (a) The department, through the WorkHawaii program, shall compile and maintain a "first source register."
- (b) The first source register shall list residents who are qualified for nonmanagerial and nonprofessional jobs only, in categories which are stated in the rules.
- (c) The department shall consult with the State of Hawaii, department of human resources, the Oahu private industry council, nonprofit and community organizations, labor unions, and other interested organizations to compile and maintain the first source register.

(Added by Ord. 99-71)

***Editor's Note:** "December 16, 1999" is substituted for "the effective date of the ordinance which created this article."

Sec. 2-33.4 First source agreement required.

Each contract between the city and a beneficiary shall provide:

- (a) That the beneficiary shall use the resources of the first source program as the initial contact for recruitment and referral of individuals for new and replacement nonmanagerial and nonprofessional employment related to a city contract with or grant to a beneficiary;
- (b) That the beneficiary shall contact the director as provided in the rules prior to interviewing a new or replacement nonmanagerial and nonprofessional individual for employment related to a contract;
- (c) That the director shall have three days from the date that the beneficiary contacts the director, as stated in the rules, to refer qualified individuals to the beneficiary before the beneficiary may interview other individuals, provided, however, that the beneficiary may apply to the director to waive the three-day requirement as stated in the rules;
- (d) That the beneficiary shall interview and consider individuals referred by the director before interviewing other individuals;
- (e) That the beneficiary shall use its best efforts to hire individuals referred by the director; and
- (f) That the first source agreement shall terminate contemporaneously with the termination of the beneficiary's contract.

(Added by Ord. 99-71)

Sec. 2-33.5 Rules.

The director shall adopt rules pursuant to the provisions of HRS Chapter 91 to implement this article.

(Added by Ord. 99-71)

Sec. 2-33.6 Department's report.

The department shall submit a report to the city council within 30 working days from the end of each calendar quarter, which shall include the following:

- (a) The noncumulative number of contracts for which first source agreements were executed;
- (b) The noncumulative number of individuals listed in the first source register who have been employed;
- (c) The length of time individuals listed in the first source register have been employed; and
- (d) The number of residents listed in the first source register at the beginning and at the end of the reported calendar quarter.

(Added by Ord. 99-71)

Sec. 2-33.7 Enforcement.

- (a) Any transfer of the assets of the beneficiary which are related to a contract shall be subject to the provisions of the first source agreement and shall bind and be enforceable against the transferee.
- (b) If a beneficiary defaults in the performance of its obligations stated in the first source agreement, the city shall notify the beneficiary of the default in writing addressed to the beneficiary at its address stated in the contract, or at an address otherwise provided to the city by the beneficiary.
- (c) The beneficiary shall commence to correct all of the defaults stated in the city's written notice within five days of the date of the written notice and shall complete the correction within a reasonable time.
- (d) If the beneficiary fails to correct all of the defaults stated in the city's written notice, the city may exercise its remedies stated in the contract.

(Added by Ord. 99-71)

**Article 34. Biodiesel or Renewable Fuel Converted from Commercial FOG Waste
or Commercial Cooking Oil Waste**

Sections:**2-34.1 Definitions.****2-34.2 Policy on procurement of biodiesel or renewable fuel converted from commercial FOG waste or commercial cooking oil waste.****Sec. 2-34.1 Definitions.**

For the purpose of this article:

"Biodiesel or renewable fuel" means fuel converted from commercial FOG waste or commercial cooking oil waste.

"City executive agency" means an agency of the executive branch other than the board of water supply. The term does not include the transit management services contractor as defined under Chapter 13.

"Commercial cooking oil waste" means the same as defined under Chapter 14, Article 5A.

"Commercial FOG waste" means the same as defined under Chapter 14, Article 5A.

(Added by Ord. 02-14)

Sec. 2-34.2 Policy on procurement of biodiesel or renewable fuel converted from commercial FOG waste or commercial cooking oil waste.

(a) This section shall apply when a city executive agency engages in the procurement of fuel to power a city vehicle fleet or city facility.

(b) In such a procurement, the city executive agency shall not, without justification based upon quality or price, discriminate against biodiesel or renewable fuel. The city executive agency shall allow a person to submit a bid or offer to supply such biodiesel or renewable fuel as the fuel for the procurement if the agency determines that:

(1) The biodiesel or renewable fuel is usable by the city vehicle fleet or city facility, as applicable; and

(2) The biodiesel or renewable fuel will perform at least as efficiently and effectively as petroleum-based fuel that meets the specifications of the procurement.

The city executive agency shall issue specifications for the procurement that are consistent with this subsection.

The city executive agency shall not be required to award the contract to a person who submits a bid or offer to supply biodiesel or renewable fuel. Instead, the city executive agency shall select the winning bid or offer and award the fuel supply contract in accordance with HRS Chapter 103D and after consideration of relevant factors, including quality and price.

(c) This section shall not be construed as preventing the application of a preference in a procurement for biodiesel or renewable fuel.

(Added by Ord. 02-14)

Article 35. ENERGY STAR Products

Sections:**2-35.1 Definitions****2-35.2 Required procurement of ENERGY STAR qualified products.****Sec. 2-35.1 Definitions.**

For the purpose of this article:

"City" includes both the executive and legislative branches of the City and County of Honolulu.

"ENERGY STAR" is the joint program of the United States Environmental Protection Agency (EPA) and the United States Department of Energy designed to identify and promote energy efficient products.

"ENERGY STAR qualified product" means a product that has met strict energy efficiency guidelines set by the EPA and Department of Energy and is identified by the ENERGY STAR label.

(Added by Ord. 08-28)

Sec. 2-35.2 Required procurement of ENERGY STAR qualified products.

- (a) Except as otherwise provided under subsection (b), when procuring products that are listed under the ENERGY STAR program, the city shall procure only ENERGY STAR qualified products.
- (b) The city may procure products not ENERGY STAR qualified under the following circumstances:
 - (1) No comparable product is ENERGY STAR qualified; or
 - (2) The life-cycle costs of all comparable ENERGY STAR qualified products are more than 105 percent of the life-cycle cost of a product that is not ENERGY STAR qualified.

(Added by Ord. 08-28)

Article 36. Light Pollution**Sections:****2-36.1 Definitions.****2-36.2 Street lighting to minimize light pollution.****Sec. 2-36.1 Definitions.**

As used in this article, unless context otherwise requires:

"Full-cutoff" means the street lighting fixture is constructed so that all of the light emitted by the fixture is projected below the horizontal plane of the lowest point of the fixture.

"Semi-cutoff" means the street lighting fixture is constructed so that at least ninety percent of the light emitted by the fixture is projected below the horizontal plane of the lowest point of the fixture.

"Street lighting fixture" means an outdoor artificial lighting device, fixture, lamp, or other similar device that is intended to provide illumination for visibility on city or city-approved streets and roadways.

(Added by Ord. 13-4)

Sec. 2-36.2 Street lighting to minimize light pollution.

All new and replacement municipal street lighting fixtures installed by the department of design and construction or department of facility maintenance from July 1, 2013, shall be full-cutoff or semi-cutoff lighting fixtures. This subsection shall not apply to any street lighting fixture that is existing and legally installed, or planned and approved prior to July 1, 2013; provided that any street lighting fixture exempt under this subsection that subsequently becomes inoperable shall be replaced with a full-cutoff or semi-cutoff street lighting fixture that provides illumination and uniformity equal to or better than the recommendations of the Illuminating Engineering Society of North America; provided further that if the appropriate fixture for the existing light pole spacing is not available, a non-complying fixture that meets the illumination and uniform design criteria of the Illuminating Engineering Society of North America shall be allowed.

(Added by Ord. 13-4)

Article 37. Zoo Sponsorship Program**Sections:**

- 2-37.1 Declaration of legislative intent and findings.**
- 2-37.2 Definitions.**
- 2-37.3 Exclusions.**
- 2-37.4 Sponsorship of Honolulu Zoo exhibits or facilities.**
- 2-37.5 Funds received from sponsorship agreements.**
- 2-37.6 Approval of sponsorship agreements.**
- 2-37.7 Sponsorship guidelines.**
- 2-37.8 Sponsorship rules.**

Sec. 2-37.1 Declaration of legislative intent and findings.

In an effort to support and improve the Honolulu Zoo, it is in the best interest of the city to create and enhance relationships with the private sector, including individuals, corporations and other organizations, through sponsorship arrangements. Sponsorship arrangements are deemed not to constitute a public forum for communication and debate. The rights established by the sponsorships are established and retained at the city's discretion. Sponsorships will create alternative revenue streams that will increase the city's ability to improve and to maintain the Honolulu Zoo and/or to provide enhanced levels of service and maintenance beyond the core levels funded from the city's special events fund or general fund for the benefit of users and the community at large.

In appreciation of such support, it is the policy of the city to provide sponsors with suitable acknowledgement of their contribution. However, such recognition should adhere to the aesthetic values and purposes of the Honolulu Zoo. In addition, such recognition should not detract from the public's experience or expectation, nor should it impair the visual qualities of the Honolulu Zoo or be perceived as creating a proprietary interest.

(Added by Ord. 15-42)

Sec. 2-37.2 Definitions.

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

"Financial contribution" means cash, goods, and/or services, paid, given or provided to the city at such time or times as set forth in the sponsorship agreement.

"Person" means the same as defined in Section 1-4.1.

"Request for proposals" means an open competitive process whereby persons may express their interest in participating in sponsorship opportunities with the city. Requests for proposals shall include a summary of the sponsorship opportunity, benefits for participation and a description of the open and competitive procedure for expressing interest in participating in sponsorship opportunities.

"Sponsor" means a person that enters into a sponsorship agreement with the city.

"Sponsorship" means a mutually beneficial arrangement between the city and a person, wherein the person provides a financial contribution to the city in return for recognition of the sponsor, for a specified period of time, toward the construction, renovation, or maintenance of an exhibit or facility at the zoo.

"Sponsorship agreement" means a written agreement executed between the city and a sponsor governing a sponsorship, on terms and conditions acceptable to the city and the sponsor.

(Added by Ord. 15-42)

Sec. 2-37.3 Exclusions.

This article shall not apply to:

- (a) Gifts, grants, or unsolicited donations where no sponsorship agreement exists or is required; and
- (b) Memorials and the name of a city park, site or facility subject to Sections 22-9.3 to 22-9.5.

(Added by Ord. 15-42)

Sec. 2-37.4 Sponsorship of Honolulu Zoo exhibits or facilities.

- (a) The department of enterprise services, in consultation with the director of the Honolulu Zoo, may, through the department of budget and fiscal services, establish a Honolulu Zoo sponsorship program to allow sponsorships of exhibits or facilities within the boundaries of the Honolulu Zoo, provided that the terms of sponsorship of the exhibit or facility must include but will not be limited to:
- (1) Designation of the specific exhibit or facility at the Honolulu Zoo being sponsored;
 - (2) The financial contribution proposed to be made for the sponsorship of the specified exhibit or facility;
- and
- (3) The duration of the sponsorship agreement.
- (b) The department of enterprise services may recognize the sponsor of an exhibit or facility in any city publications or city informational notices describing the exhibit or facility and may place a plaque or sign within the boundaries of the Honolulu Zoo in recognition of sponsors stating that an exhibit or facility is “sponsored by” or “made possible through the support of” the sponsor; provided that a plaque or sign in view of the general public from outside the boundaries of the Honolulu Zoo is prohibited.
- (c) Placement of sponsorship signs shall require specific authorization, and no sponsorship sign shall be intended or considered as an open, limited, or designated public forum.
- (d) Signs providing sponsorship recognition shall conform to all applicable laws, rules and regulations.
- (e) The city reserves the right to refuse to enter into any proposed sponsorship agreement.
- (Added by Ord. 15-42)

Sec. 2-37.5 Funds received from sponsorship agreements.

All funds received from any sponsorship agreements made pursuant to this article shall be deposited into the special events fund established in Chapter 6, Article 53.

(Added by Ord. 15-42)

Sec. 2-37.6 Approval of sponsorship agreements.

No sponsorship agreement may be executed by the city without the approval of the city executive department designated by the mayor.

(Added by Ord. 15-42)

Sec. 2-37.7 Sponsorship guidelines.

- (a) The following guidelines shall apply to a sponsorship agreement:
- (1) Signage, publications and informational notices shall conform to all applicable laws, rules and regulations.
 - (2) The sponsorship shall not confer a personal benefit, directly or indirectly, to any particular city employee or official.
 - (3) The sponsorship shall not constitute an endorsement of the sponsor or its services and products, or create any proprietary interest of the sponsor in the city or Honolulu Zoo.
 - (4) No materials, communications, or advertisements including, but not limited to, print, video, internet, broadcast, or display items developed to promote or communicate the sponsorship, may use the city’s name, seal, or logo without express prior written approval from the city.
 - (5) The sponsorship shall not discriminate against any person on the basis of race, color, creed, religion, sex, including gender identity and expression, sexual orientation, age, marital status, ancestry, national origin or disability.
 - (6) Signage, branding, publicity and advertising in conjunction with the sponsorship agreement shall not contain the following:
 - (A) Obscenity;
 - (B) Pornography;
 - (C) Incitement to imminent lawless action;
 - (D) Speech presenting a grave and imminent threat;
 - (E) Fighting words;
 - (F) Fraud;
 - (G) True threats;

- (H) Defamation (libel/slander); or
 - (I) Solicitations to commit, or speech integral to, criminal conduct.
 - (7) Sponsorships shall be non-exclusive, and the city shall retain the right to grant multiple sponsorships for the Honolulu Zoo.
 - (8) Sponsorships recognition benefits may include the following during the term of the agreement:
 - (A) Recognition of the sponsor for the exhibit or facility;
 - (B) Appropriate mention in media releases and promotional materials as sponsor for the exhibit or facility;
 - (C) Appropriate sponsor signage at the exhibit or facility;
 - (D) Appropriate recognition on the program website as a sponsor for the exhibit or facility; and
 - (E) Other possible benefits as negotiated.
 - (9) Sponsorships may be terminated in writing at any time during the term of the sponsorship agreement when, in the sole determination of the city, the sponsorship is no longer in the best interest of the city.
 - (10) The city retains its rights and discretion to exercise full editorial control over the placement, content, appearance, and wording of sponsorship signs, affiliations and messages.
 - (11) Sponsorship materials that advocate, contain price information or an indication of associated savings or value, request a response, or contain comparative or qualitative descriptions of products, services, or organizations, shall not be allowed.
 - (b) The city shall not solicit or accept sponsorship from any potential sponsor if not deemed in the best interest of the city. In addition, sponsorships involving the following shall not be accepted:
 - (1) Persons or companies whose business is substantially derived from the sale or manufacture of tobacco, alcohol or firearms;
 - (2) Political campaign speech, or speech that supports or opposes or appears to support or oppose a ballot measure or initiative, or refers to any person in public office;
 - (3) Religious speech that advocates or opposes a religion or religious belief; and
 - (4) Entities that practice or promote discrimination based on race, color, creed, religion, sex, including gender identity and expression, sexual orientation, age, marital status, ancestry, national origin or disability.
- (Added by Ord. 15-42)

Sec. 2-37.8 Sponsorship rules.

The city executive department designated by the mayor, in consultation with the director of the Honolulu Zoo, may adopt rules, in accordance with HRS Chapter 91, for the implementation, administration and enforcement of this article. Such rules may include, but will not be limited to the:

- (a) Facilities and exhibits that may be sponsored;
- (b) Use of the request for proposal process for selection of the sponsor;
- (c) Types of access to the commercial and/or marketing potential association with the city, including giving sponsorship credit to the sponsor, size, number, and placement of plaques or signs;
- (d) Use of city logos; and
- (e) Types of facilities and exhibits that are not eligible for sponsorship.

(Added by Ord. 15-42)

Article 38. Solar Photovoltaic Systems

Section:

2-38.1. Required construction, installation, and operation of solar photovoltaic systems at municipal buildings and municipal facilities.

Sec. 2-38.1 Required construction, installation, and operation of solar photovoltaic systems at municipal buildings and municipal facilities.

The city shall install solar photovoltaic systems in municipal buildings and facilities to the extent practicable to meet the city's electrical demand. All solar photovoltaic systems installed at a city building or facility must be designed, erected, and installed in accordance with all applicable codes, regulations, and standards. For the purposes of this article, "solar photovoltaic system" means any system that converts solar radiation to electricity. (Added by Ord. 15-49)

Article 39. Department of Design and Construction

Sections:

2-39.1 General.

2-39.2 Notice of proposed condemnation action.

2-39.3 Green building standards for city facilities.

Sec. 2-39.1 General.

The department of design and construction shall be responsible for:

- (a) The planning, engineering, design, and construction of city buildings, structures and grounds, except as otherwise provided by the charter or ordinance;
- (b) Surveys, title searching, appraising and negotiation for acquisition of lands and easements for rights-of-way for street widening and extensions, sewers, water, drainage, and other public uses; and
- (c) Planning, engineering, design, and construction services and expertise as needed for public works and improvement district functions other than for sewers.

(Added by Ord. 16-29)

Sec. 2-39.2 Notice of proposed condemnation action.

Whenever the city proposes to acquire real property by means of the right and power of eminent domain, the city shall mail a notice to every owner and lessee of record of the property whenever the city council is being requested to authorize condemnation of the property. The notice shall be mailed to the owners' and lessees' last known addresses no later than the date a request is transmitted to the council for authorization, pursuant to HRS Section 101-13, to institute condemnation proceedings against the owners and claimants of the property sought to be condemned.

(Added by Ord. 16-29)

Sec. 2-39.3 Green building standards for city facilities.

- (a) Qualifying city facilities shall comply with LEEDTM Silver, in the version most recently adopted by the U.S. Green Building Council, as a minimum design standard.
- (b) As used in this section, "qualifying city facilities" means facilities with a floor area greater than 5,000 square feet, the design of which is appropriated in the executive capital budgets for the fiscal years 2008 and thereafter. The term excludes wastewater treatment, solid waste, and other facilities for which LEEDTM certification is not available or facilities for which the director of design and construction has determined that compliance with LEEDTM Silver would be infeasible or inappropriate.

(Added by Ord. 16-29)

Article 40. Sponsorship of City Assets *

Sections:

- 2-40.1 Declaration of legislative intent - purpose.**
- 2-40.2 Definitions.**
- 2-40.3 Exclusions.**
- 2-40.4 Authorization required.**
- 2-40.5 Funds received from sponsorship agreements.**
- 2-40.6 Sponsorship rules.**
- 2-40.7 Sponsorship requirements.**
- 2-40.8 Severability.**

Sec. 2-40.1 Declaration of legislative intent - purpose.

In an effort to utilize and maximize the community's resources, it is in the best interest of the city to create and enhance relationships with the private sector, including individuals, corporations and other organizations, through commercial sponsorships. Sponsorship arrangements are deemed not to constitute a public forum for communication and debate. The rights established by the sponsorships are established and retained at the city's discretion. Sponsorships will create alternate revenue streams that will increase the city's ability to deliver services and to maintain city assets, including its facilities, parks, programs, equipment, and tangible property, and provide enhanced levels of service and maintenance beyond the core levels funded from the city's general fund for the benefit of users and the community at large.

In appreciation of such support, it is the policy of the city to provide sponsors with suitable acknowledgement of their contribution. However, such recognition should adhere to the aesthetic values and purposes of the city's assets. In addition, such recognition should not detract from the public's experience or expectation, nor should it impair the visual qualities of the city asset or be perceived as creating a proprietary interest. Sponsorship recognition must conform to all applicable laws and rules.

The purpose of this article is to establish the criteria and parameters for the granting of sponsorship opportunities in relation to city assets. This article provides executive agencies the authority to consider and approve sponsorship opportunities for a person that has provided a financial contribution to support a city asset. (Added by Ord. 17-16)

Sec. 2-40.2 Definitions.

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

"Cash sponsorship" means a type of sponsorship where a sponsor provides cash.

"City asset" means a city facility, park, program, equipment, or tangible property.

"Equipment" means any vehicle, construction equipment, machine, device, gear, apparatus, or tool with a value in excess of \$25,000 used in the operation of the city but does not include city-operated buses or special transit service vehicles.

"Facility" means any building, including any stadium, arena or station, owned, managed or operated by the city.

"Financial contribution" means cash, goods, or services, paid or provided to the city at such time or times as set forth in the sponsorship agreement.

"In-kind sponsorship" means a type of sponsorship where a sponsor provides a good or service.

"Person" means the same as defined in Section 1-4.1.

"Program" means any program, festival, contest, event, fair, athletic race, gala or similar event provided by a city department in connection with the operations of a department.

"Sponsor" means a person that enters into a sponsorship agreement with the city.

"Sponsorship" means a mutually beneficial arrangement between the city and a person, wherein the person provides a financial contribution to the city in return for sponsor recognition on or in connection with one or more city assets, for a specified period of time.

***Editor's Note:** Article 40 of Chapter 2 will be repealed on May 12, 2022.

"Sponsorship agreement" means a written agreement executed between the city and a sponsor governing a sponsorship, on terms and conditions acceptable to the city and the sponsor. A sponsorship agreement may include provisions that allow for the recognition of the sponsor.

"Sponsorship recognition" means a tangible acknowledgement and expression of gratitude issued as part of the sponsorship agreement.

(Added by Ord. 17-16)

Sec. 2-40.3 Exclusions.

This article does not apply to:

- (a) Gifts, grants, or unsolicited donations where no sponsorship agreement exists or is required;
- (b) Memorials and the naming of a city park, site, or facility subject to Sections 22-9.3 to 22-9.5;
- (c) Parades or events sponsored or co-sponsored by the city pursuant to other ordinances or rules;
- (d) Facilities in Kapiolani Regional Park; and
- (e) Facilities in Hanauma Bay Nature Preserve.

(Added by Ord. 17-16)

Sec. 2-40.4 Authorization required.

- (a) City assets are intended and exclusively used for operations of the city in providing governmental services and programs to and for the public, and except as required by law or expressly established by an affirmative action by the city council, no person will have a right to access or use any city asset for any purpose other than the intended and authorized governmental purpose or service. Placement of sponsorship messages upon a city asset will require specific authorization.
- (b) The city possesses sole and final decision-making authority for determining the appropriateness of a sponsorship and reserves the right to refuse to enter into any proposed sponsorship agreement. Approval of proposals will be subject to the following guidelines:
 - (1) A director of an executive agency shall have the authority to enter into a sponsorship agreement, pursuant to the rules to be adopted under Section 2-40.6, that is for:
 - (A) A term of less than five years; and
 - (B) A financial contribution of less than \$50,000;
 - (2) All sponsorship agreements for a financial contribution of \$50,000 or more must be approved by a resolution adopted by the city council; and
 - (3) All sponsorship agreements for a period of five years or more must be approved by a resolution adopted by the city council.

(Added by Ord. 17-16)

Sec. 2-40.5 Funds received from sponsorship agreements.

All funds received pursuant to sponsorship agreements will be deposited into the appropriate fund as determined by the director of budget and fiscal services, provided that such funds are expended for their designated purpose.

(Added by Ord. 17-16)

Sec. 2-40.6 Sponsorship rules.

The director of budget and fiscal services or other director as designated by the mayor shall adopt rules, in accordance with HRS Chapter 91, for the implementation, administration, and enforcement of this article. In adopting the rules, the director of budget and fiscal services or other director as designated shall ensure that this article and any sponsorship agreements entered into pursuant to this article are implemented in a manner consistent with all other applicable laws including and without limitation, HRS Chapter 89.

(Added by Ord. 17-16)

Sec. 2-40.7 Sponsorship requirements.

- (a) The following requirements apply to all sponsorship agreements:
- (1) The city shall not relinquish any aspect of the city's right to direct, manage and control the city asset;
 - (2) Sponsorship recognition, publications, and publicity must conform to all applicable laws and rules, including but not limited to HRS Chapter 445, Part IV, pertaining to outdoor advertising, including billboards, and Chapter 21, Article 7, pertaining to sign regulations;
 - (3) The sponsorship must not create a conflict of interest for the city;
 - (4) The sponsorship must not confer a personal benefit, directly or indirectly, to any particular city officer or employee;
 - (5) Sponsorships shall not be deemed to constitute an endorsement of the sponsor or its services and products, or create any proprietary interest of the sponsor in the city or the city assets;
 - (6) No materials, communications, or advertisements including, but not limited to, print, video, internet, broadcast, or display items developed to promote or communicate the sponsorship, may use the city's name, seal, or logo without express prior written approval from the city;
 - (7) Any physical form of sponsorship recognition must blend in with the surrounding environment;
 - (8) The sponsorship must not discriminate against any person on the basis of race, color, creed, religion, sex, including gender identity and expression, sexual orientation, age, marital status, ancestry, national origin, or disability;
 - (9) Sponsorship recognition, branding, publicity, and advertising in conjunction with the sponsorship agreement must not contain the following:
 - (A) Obscenity;
 - (B) Pornography;
 - (C) Incitement to imminent lawless action;
 - (D) Speech presenting a grave and imminent threat;
 - (E) Fighting words;
 - (F) Fraudulent material;
 - (G) True threats;
 - (H) Defamatory, libelous, or slanderous material;
 - (I) Solicitations to commit, or speech integral to, criminal conduct;
 - (J) The promotion of drugs, alcohol, tobacco, gambling, or adult entertainment;
 - (K) Political campaign speech, or speech that supports or opposes or appears to support or oppose a ballot measure or initiative, or refers to any person in or campaigning for public office; or
 - (L) Religious speech that advocates or opposes a religion or religious belief;
 - (10) Each sponsorship agreement must specify whether the sponsorship for a particular asset will be exclusive or non-exclusive;
 - (11) Sponsorship recognition may include the following, or any combination thereof, during the term of the agreement:
 - (A) Recognition of the sponsor for a specific city program;
 - (B) Appropriate mention in media releases and promotional materials of a sponsor for the city program;
 - (C) Appropriate sponsorship recognition or display at the city program location;
 - (D) Appropriate recognition on the program website as a sponsor for the program; or
 - (E) Other possible benefits as negotiated;
 - (12) Sponsors shall defend, indemnify, and hold harmless the city, its officers, agents, and employees against all liability, loss, damage, cost, and expense, including attorneys' fees, arising out of or resulting from the acts or omissions of the sponsor, its directors, employees, officers, agents, or contractors, in connection with the sponsorship and the sponsorship agreement;
 - (13) Sponsorships may be terminated in writing at any time during the term of the sponsorship agreement when, in the sole determination of the city, the sponsorship is no longer in the best interest of the city;

- (14) The city retains its rights and discretion to exercise full editorial control over the placement, content, appearance, and wording of sponsorship recognitions, affiliations, and messages; and
 - (15) Sponsorship materials that advocate, contain price information or an indication of associated savings or value, request a response, or contain comparative or qualitative descriptions of products, services, or organizations are prohibited.
- (b) The following sponsorships will not be accepted:
- (1) Sponsorships from persons that practice or promote discrimination based on race, color, creed, religion, sex, including gender identity and expression, sexual orientation, age, marital status, ancestry, national origin, or disability;
 - (2) Sponsorships from persons that have a pending open application with the city for a discretionary approval;
 - (3) Sponsorships from persons opposing the city in a pending or ongoing legal proceeding; and
 - (4) Sponsorships that involve situations where the corporation counsel determines that there would be or are conflicts of interest.

(Added by Ord. 17-16)

Sec. 2-40.8 Severability.

The provisions of this article are declared to be severable. If any portion of this article is held invalid for any reason, the validity of any other portion of this article which may be given effect without the invalid portion will not be affected and if the application of any portion of this article to any person, property, or circumstance is held invalid, the application of this article to any other person, property, or circumstance will not be affected.

(Added by Ord. 17-16)

REVISED ORDINANCES OF HONOLULU

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