

Section 2-211. Dissolution of the fund.

The disaster and emergency fund shall not be dissolved unless such dissolution is approved by a two-thirds vote of the County council.

(2004, ord 04-4, sec 2.)

Section 2-212. Reimbursement from grants.

If the County should receive reimbursement for money advanced by the disaster and emergency fund, the grant money shall return to the disaster and emergency fund.

(2004, ord 04-4, sec 2.)

Section 2-213. Administration of the fund.

The director of finance shall administer the disaster and emergency fund, which shall include investment of the fund.

(2004, ord 04-4, sec 2.)

Article 42. Public Access, Open Space, and Natural Resources Preservation.**Section 2-214. Repealed.**

(2005, ord 05-85, sec 2; am 2005, ord 05-166, sec 1; am 2006, ord 06-151, sec 1; ord 06-169, sec 1; am 2007, ord 07-21, sec 1; am 2009, ord 09-66, sec 2; am 2013, ord 13-31, sec 2; rep 2015, ord 15-97, sec 3.)

Section 2-214.1. Public access, open space, and natural resources preservation fund.

- (a) A public access, open space, and natural resources preservation fund is hereby established. This special fund shall be administered and managed by the finance department. Monies deposited shall be invested in a conservative interest-bearing account that will allow monies to be available for property acquisition and prevent any erosion of the fund's principal amount.
- (b) The fund shall consist of monies from:
 - (1) The proceeds from the sale of any general obligation bonds, authorized and issued for the purposes of this section;
 - (2) Council appropriations for the purposes of this section;
 - (3) Any source of revenue dedicated by the Charter or the Code for the purposes of this section;
 - (4) Grants and private contributions intended for the purposes of this section;
 - (5) Two percent of Hawai'i County real property tax revenues collected annually (including penalties and interest). Deposits will be made to the Fund on June 30, 2007 and then again on December 31, 2007, and on December 31 and June 30, in successive years, with deposits being calculated on all real property tax payments (including penalties and interest) received in the prior six months. Additional deposits and adjustments may be made at the discretion of the director of finance;

- (6) Monies from items numbered (1), (2), (3), and (4) above, shall be deposited as received; and
 - (7) Notwithstanding (b)(5) of this section, for the period from July 1, 2009 to June 30, 2011, no payments relating to this section shall be allocated or deposited, provided, however, that all payments accrued through June 30, 2009 shall be allocated and deposited by July 31, 2009.
- (c) The fund shall be used for acquiring lands or property entitlements in the County of Hawai'i for the following purposes:
- (1) Public outdoor recreation and education, including access to beaches and mountains;
 - (2) Preservation of historic or culturally important land areas and sites;
 - (3) Protection of natural resources, including buffer zones;
 - (4) Preservation of forests, beaches, coastal areas, natural beauty and agricultural lands; and
 - (5) Protection of watershed lands to preserve water quality and water supply.
- (d) The director of finance shall ensure that the following covenant is written and duly recorded as part of the deed of any property acquired pursuant to this section:
- “This land/easement was acquired with moneys from the Public Access, Open Space, and Natural Resources Preservation Fund. It shall be held in perpetuity for the use and enjoyment of the people of Hawai'i County and may not be sold, mortgaged, traded or transferred in any way.”
- The director of finance shall select either “land” or “easement” based on the type of property acquired.

(2005, ord 05-85, sec 2; am, ord 05-166, sec 1; am 2006, ord 06-151, sec 1; ord 06-169, sec 1; am 2007, ord 07-21, sec 1; am 2009, ord 09-66, sec 2; am 2013, ord 13-31, sec 2; am 2015, ord 15-97, sec 3-5.)

Section 2-214.2. Public access, open space, and natural resources preservation maintenance fund.

- (a) Pursuant to section 10-16(c) of the Charter, a special fund known as the public access, open space, and natural resources preservation maintenance fund is established. The purpose of this special fund is to accrue and use moneys for maintenance of lands and easements acquired in full or in part by the public access, open space, and natural resources preservation fund.
- (b) Pursuant to section 10-16(c) of the Charter, the maintenance fund shall be administered and managed by the department of parks and recreation. Adequate staff to carry out the provisions of this article and section 10-16 of the Charter shall be provided in the department of parks and recreation.
- (c) The financial aspects of the maintenance fund shall be handled by the department of finance. Pursuant to sections 10-16(d), (e), and (f) of the Charter, deposits shall occur, and accounting, reports and financial statements from the department of finance shall be made.

- (d) Pursuant to section 10-16(g) of the Charter, this maintenance fund shall be used solely for expenditures directly related to its purpose.
- (e) Pursuant to section 10-16(h) of the Charter, and article 25 of this chapter, stewardship grants may be provided to 501(c)(3) nonprofit organizations or an organization operating under the umbrella of a 501(c)(3) nonprofit organization. (2015, ord 15-97, sec 6.)

Section 2-215. Public access, open space, and natural resources preservation commission.

- (a) There is established a public access, open space, and natural resources preservation commission. There shall be nine members on this commission, appointed by the mayor and confirmed by the council. The members may be removed upon recommendation by the mayor and the approval of the council. One member shall reside in each County council district. The members shall serve staggered terms of five years. Upon initial appointment of the commission, one member shall be appointed to a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years. Staff support shall be provided by the finance department.
- (b) No member shall be eligible for a second appointment to the commission prior to the expiration of two years, provided that members initially appointed for a term of one year and two years shall be eligible to succeed themselves for an additional term.
- (c) No member whose term has expired shall continue to serve on the commission, except that if no successor has been appointed and confirmed, the member shall continue to serve for ninety days or until a successor is appointed and confirmed, whichever comes first.
- (d) Any vacancy occurring in the commission shall be filled for the unexpired term.
- (e) Not more than a bare majority of the members shall belong to the same political party.
- (f) Members shall receive no compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties. Necessary expenses may be paid in advance as per diem allowance pursuant to article 16.
- (g) A chairperson shall be elected from its membership annually.
- (h) The affirmative vote of a majority of those members present shall be necessary to make any action valid.
- (i) The commission shall have the power to establish its rules of procedure necessary for the conduct of its business, which rules shall contain the time and place of all regular meetings, and which shall specify that a quorum shall be a majority of the members to which the commission is entitled.
- (j) No person shall, by reason of occupation alone, be barred from serving as a member of this commission.

- (k) The council shall act to confirm or reject any appointment made to the commission by the mayor within forty-five days after receiving notice of the appointment from the mayor. If the council does not confirm or reject any such appointment within forty-five days, the appointee shall be deemed to have been confirmed.
 - (l) The redrawing of the council district boundaries during a member's term shall not affect a member's eligibility to represent the district to which the member was appointed.
- (2005, ord 05-166, sec 2.)

Section 2-216. Oath of affirmation.

Before beginning their duties, each member appointed shall subscribe to the oath or affirmation before some person duly qualified to administer oaths:

"I, _____ do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Hawai'i, and that I will faithfully discharge my duties as a member of the public access, open space, and natural resources preservation commission to the best of my ability."

(2005, ord 05-166, sec 3.)

Section 2-217. Duties and responsibilities of the commission.

The duties and responsibilities of this commission are:

- (1) To develop and submit to the mayor an island-wide prioritized list of qualifying lands worthy of preservation. The commission shall give emphasis to land acquisitions where the County's contribution can be leveraged to obtain State, Federal, and/or private lands. Priorities shall be listed on an island-wide rather than district basis. The list shall include the significance of each parcel or entitlement identified, the reason for its priority, and its anticipated use after acquisition;
- (2) To update this list at any time, but at least annually by December 31 of each year;
- (3) To explore methods of funding land acquisition and make recommendations to the mayor;
- (4) To review, evaluate, and make recommendations to the director of the department of parks and recreation regarding applications for stewardship grants from the maintenance fund, within six months of receipt of each application. Recommendations shall address whether grant applicants have the ability to complete their proposed projects according to the project plan, on time, and within cost estimates, in accordance with section 10-16(h) of the Charter;
- (5) To review stewardship grant applications, business plans, agreements, and other documentation accompanying grant applications. The commission may also conduct interviews and perform site visits and other activities necessary to formulate a recommendation; and

- (6) To review stewardship grant recipient performance reports, conduct interviews, and perform site visits and other activities necessary to verify that grant objectives are being met. The commission shall forward its findings to the director of parks and recreation.
- (2005, ord 05-166, sec 4; am 2015, ord 15-97, sec 7.)

Section 2-218. Prioritized list of qualifying lands worthy of preservation.

- (a) The prioritized list developed by the commission shall be submitted to the mayor for comments and recommendation. Within sixty days after receipt, the mayor will submit the list to the council with comments and recommendations. The council shall, by resolution, select the land or lands to be preserved. Under no circumstances shall the purchase price paid for a property exceed the appraised value as prepared by an independent appraiser engaged by the County. Where there are multiple lands under consideration at any one time, priority shall be given to coastal lands and lands where matching funding is available to leverage the County contribution.
- (b) Negotiations for acquisition of lands to be preserved shall occur between the County and the seller or its commissioned agent, or a licensed broker only. The commission shall have no role in the negotiations other than in its advisory capacity.
- (c) Appraisals, title reports, surveying and other costs incidental to the acquisition of land shall be permitted uses of the public access, open space, and natural resources preservation fund.
- (d) Adequate staff to carry out the provisions of this article and to manage the land acquired shall be provided in the department of finance to maximize the use of available funds by minimizing the payment of commission to outside agents to put together funding plans and to ensure that the County is a good steward of any land that comes under its control through this article.

(2005, ord 05-166, sec 5; am 2007, ord 07-21, sec 2; am 2015, ord 15-97, sec 8.)

Article 43. Budget Stabilization Fund.

Section 2-219. Creation of fund; purpose.

- (a) Pursuant to section 10-12, Hawaii County Charter 2000, a special fund to be known as the budget stabilization fund is created.
- (b) The purpose of the budget stabilization fund shall be a temporary, supplemental source of funds for the County to use during times of financial hardships while a plan for cost reduction or revenue enhancement is developed. Additionally, the fund may be used to insulate general fund programs and current service levels from:
- (1) Revenue shortfalls to minimize the need for budget cuts or tax increases;
 - (2) A revenue reduction due to a change in state or federal legislation; or
 - (3) Slower revenue growth that typically occurs during an economic recession.

(2006, ord 06-101, sec 1; am 2011, ord 11-128, sec 2.)