

OFFICE OF THE COUNTY CLERK

2002 AMENDMENT

The Charter of the County of Kauai

“Section 19.15. Fund Administration.

A. Deposit of Funds. Money received by officers and employees shall be deposited promptly to the county’s account in depositories authorized by law.

B. Creation of Funds. In addition to the funds established by this charter, the mayor, with the approval of the council, may establish other funds when necessary and when no appropriate class of funds exists. Nothing in this section shall preclude the council from introducing and adopting other funds by ordinance.

C. Public Access, Open Space, Natural Resources Preservation Fund.

(1) In adopting each fiscal year’s budget and capital program, the council shall appropriate a minimum of one-half of one percent of the certified real property tax revenues to a fund known as the public access, open space, natural resources preservation fund. The moneys in this fund shall be utilized for purchasing or otherwise acquiring lands or property entitlements for land conservation purposes in the county of Kauai for the following purposes: public outdoor recreation and education, including access to beaches and mountains; preservation of historic or culturally important land areas and sites; protection of significant habitats or ecosystems, including buffer zones; preserving forests, beaches, coastal areas and agricultural lands; protecting watershed lands to preserve water quality and water supply; conserving land in order to reduce erosion, floods, landslides, and runoff; improving disabled and public access to, and enjoyment of, public land, and open space; acquiring disabled and public access to public land, and open space.

(2) The moneys in this fund may also be used for the payment of interest, principal, and premium, if any, due with respect to bonds issued pursuant to Sections 3.13, 3.14, or 3.15, Charter, in whole or in part – for the purposes enumerated in paragraph (1) of this section and for the payment of costs associated with the purchase, redemption or refunding of such bonds.

(3) At any given time, no more than five percent (5%) of this fund shall be used for administrative expenses

(4) Any balance remaining in this fund at the end of any fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. The moneys in this fund shall not be used for any purpose except those listed in this section.

(5) The Council shall by ordinance establish procedures for the administration and priorities for the expenditure of moneys in this fund.”

“Section 19.08. Administration and Enforcement of the Annual Budget Ordinance.

A. The enactment of the annual budget ordinance shall constitute an appropriation of the sums specified therein for the purposes and from the funds indicated. Such appropriation shall be considered valid only for the fiscal year for which made, and any part of such appropriation which is not encumbered or expended shall lapse at the end of the fiscal year, except that appropriations to the fund established by paragraph C of section 19.15 shall not lapse, but shall remain in the fund, accumulating from year-to-year. Agencies authorized to make expenditures under the annual budget ordinance may proceed without other authority from the council to incur obligations or make expenditures for proper purposes to the extent that the moneys are available and as allotted.

B. Immediately following the enactment of the annual budget ordinance, the heads of all agencies shall submit to the director of finance schedules showing the expenditures anticipated for each quarter of the fiscal year.

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

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

E. Any part of an allotment which is not expended or encumbered shall be deemed re-allotted for the next allotment period.

F. The mayor may at any time transfer an unencumbered appropriation balance or portion thereof within a division or between divisions in the same department. Transfers between departments, boards or commissions shall be made only by the council by ordinance adopted pursuant to Section 19.07B, upon the recommendations of the mayor.”

“Section 19.12. Lapse of Appropriations. Every appropriation shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered, except appropriations to the fund established by paragraph C of section 19.15 and appropriations for capital budget items where any portion of said appropriation has been expended.”

These Amendments to Sections 19.15, 19.08, and 19.12 of The Charter of the County of Kauai were duly adopted by the voters at the November 2002 General Election.

Lihue, Hawaii
November 26, 2002



Peter A. Nakamura
County Clerk, County of Kauai

paid in full within thirty (30) days after receipt of the claim and notice, the County will file a civil action seeking recovery for the stated amount.

(c) Civil Suit. The County may bring a civil action for the recovery of all recoverable expenses against any and all persons causing or responsible for the placement of the individual or individuals in a situation of distress or peril which results in a rescue operation.

(d) Any expenses recovered as a result of this Article shall be credited back to the appropriate department's budget for which rescue expenses were incurred. If the recovery is less than the amount claimed, and more than one department incurred expenses, credit to each department involved shall be prorated in proportion to that department's expense.

(e) Any unexpended balance remaining in the various department's budget(s) as a result of this Article shall lapse at the end of the fiscal year. (Ord. No. 695, July 18, 1995; Ord. No. 712, October 28, 1996)

ARTICLE 14. PUBLIC ACCESS, OPEN SPACE AND NATURAL RESOURCES PRESERVATION FUND

Sec. 6-14.1 Purpose.

(a) In adopting each fiscal year's budget and capital program, the Council shall appropriate a minimum of one-half of one percent (0.5%) of the certified real property tax revenues to a fund known as the Public Access, Open Space, and Natural Resources Preservation Fund ("Fund"). The moneys in this Fund shall be utilized for purchasing or otherwise acquiring lands or property entitlements for land conservation purposes in the County of Kaua'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 significant habitats or ecosystems, including buffer zones;
- (4) Preserving forests, beaches, coastal areas and agricultural lands;
- (5) Protecting watershed lands to preserve water quality and water supply;
- (6) Conserving land in order to reduce erosion, floods, landslides, and runoff;
- (7) Improving disabled and public access to, and enjoyment of, public land and open space;
- (8) Acquiring disabled and public access to public land, and open space.

(b) The moneys in this Fund may also be used for the payment of interest, principal, and premium, if any, due with respect to bonds issued pursuant to Sections 3.13, 3.14, or 3.15, Charter, in whole or in part - for the purposes enumerated in paragraph (a) of this section and for the

payment of costs associated with the purchase, redemption or refunding of such bonds.

(c) Any balance remaining in this Fund at the end of any fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. The moneys in this Fund shall not be used for any purpose except those listed in this section. (Ord. No. 812, December 15, 2003)

Sec. 6-14.2 Administration.

(a) A community-based process that incorporates countywide community input for the purposes of establishing annual recommended priorities of lands or other property entitlements to be acquired for those land conservation purposes described in Section 6-14.1(a) of this article and paragraph C of Section 19.15 of the Charter shall be utilized by the County.

To meet this intent, a fund advisory commission ("Commission") shall be established consisting of nine (9) appointees.

(1) The Mayor shall select four (4) appointees, with at least one (1) from each of the following development plan areas and one (1) at-large:

- (A) Waimea - Kekaha;
- (B) Līhu'e - Hanamā'ulu; and
- (C) Kapa'a - Wailua.

(2) The Council shall select four (4) appointees, with at least one (1) from each of the following development plan areas and one (1) at-large:

- (A) Hanapēpē - 'Ele'ele,
- (B) Kōloa - Po'ipū - Kalāheo; and
- (C) North Shore (Anahola to Hā'ena)

(3) One (1) island wide, at-large appointee shall be selected by the appointed eight (8). If there is no agreement on the selection of the one (1) additional member within forty-five (45) days of the appointment of the eight member, the one (1) additional member shall be appointed by the Mayor and confirmed by the Council.

(4) Initial terms of appointment shall be as follows:

(A) All at-large appointees shall serve initial terms of one (1) year.

(B) Two (2) Mayoral district appointees shall serve three-year terms.

(C) One (1) Mayoral district appointee shall serve an initial one-year term.

(D) Two Council district appointees shall serve initial terms of two (2) years.

(E) One Council district appointee shall serve a three-year term.

Pursuant to Charter Section 23.02(B), all subsequent appointments shall serve for staggered terms of three (3) years and until their successors are appointed. However, no holdover term shall extend beyond ninety (90) days.

(5) The role of the Commission shall be to:

(A) Work with the Planning Department to develop an annual list of priority projects to be considered for funding; and

(B) Solicit public input on development of the annual list of priority projects to be considered for funding.

(b) The Commission shall establish annual recommended priorities of lands or property entitlements to be acquired, or for the funding of projects directly related to the purposes of this article.

(c) For administrative purposes, this Commission shall be attached to the Planning Department.

(d) At any given time, no more than five percent (5%) of this fund shall be used for administrative expenses.

(e) Meetings of this Commission shall comply with requirements of Chapter 92, Hawai'i Revised Statutes (the "Sunshine Law").

(f) The Commission shall adopt administrative rules of procedure pursuant to Chapter 91, Hawai'i Revised Statutes (the "Hawai'i Administrative Procedures Act") within one hundred and eighty (180) days of the full appointment of the Commission's membership. (Ord. No. 812, December 15, 2003)

Sec. 6-14.3 Appropriation of Funds.

(a) Appropriations for expenditure from this fund shall be made by ordinance.

(b) The Commission shall transmit annual recommendations to the Council for priorities of lands or other property entitlements to be acquired, or for the funding of projects directly related to the purposes of this article. (Ord. No. 812, December 15, 2003)