

BALLOT QUESTION
PROPOSAL NO. 2: PUBLIC ACCESS, OPEN SPACE, AND NATURAL
RESOURCES PRESERVATION FUND

Shall the Hawai‘i County Charter’s provisions relating to the Public Access, Open Space, and Natural Resources Preservation Fund be amended to:

- Raise the minimum required contribution into the Public Access, Open Space, and Natural resources Preservation Fund from a minimum of one percent (1%) of real property tax revenue (including penalty and interest) to two percent (2%) of real property tax revenue (including penalty and interest);
- Require a restrictive covenant be placed in the deed transferring the acquired land or easement as follows: “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.”; and
- Make clear that the funds may only be used to purchase land or easements, and not for any other purpose?

If you agree with Proposal No. “2,” vote yes.

If you disagree with Proposal No. “2,” vote no.

FULL TEXT OF PROPOSAL NO. 2
ORDINANCE NO. 11-94

AN ORDINANCE TO INITIATE A CHARTER AMENDMENT TO ARTICLE X, FINANCIAL PROCEDURES, SECTION 10-15, OF THE HAWAI‘I COUNTY CHARTER (2010 EDITION), REGARDING THE PUBLIC ACCESS, OPEN SPACE, AND NATURAL RESOURCES PRESERVATION FUND.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I:

SECTION 1. Article X, Financial Procedures, Section 10-15, of the Hawai‘i County Charter (2010 Edition), relating to the Public Access, Open Space, and Natural Resources Preservation Fund, is amended to read as follows:

“Section 10-15. Public Access, Open Space, and Natural Resources Preservation Fund.

- (a) In adopting each fiscal year’s operating budget[~~and capital program~~], the council shall appropriate a minimum of [~~one~~] two percent of the certified real property tax revenues, including penalty and interest, to a fund known as the public access, open space, and natural resources preservation fund. Deposits to the fund shall occur at a minimum, on a quarterly basis.
- (b) Funding shall consist of a minimum of [~~one~~] two percent of actual revenue received in the fiscal year. Additional revenue may consist of grants and private contributions intended for the purpose of this section, voluntary contributions of

any amount as specified on the real property tax bill, proceeds from the sale of general obligation bonds authorized and issued for the purpose of this section, council appropriations for the purpose of this section, [~~and grants and private contributions intended for the purpose of this section,~~] and any other source of revenue.

- (c) Monies in this fund shall be used solely to:
- (1) Purchase or otherwise acquire lands [~~or property entitlements~~] and easements in the County of Hawai'i for public outdoor recreation and education, including:
 - (A) Access to beaches and mountains;
 - (B) Preservation of historic or culturally important land areas and sites;
 - (C) Protection of natural resources, significant habitat or eco-systems, including buffer zones;
 - (D) Preservation of forests, beaches, coastal areas, natural beauty and agricultural lands; and
 - (E) Protection of watershed lands to preserve water quality and water supply.
 - (2) Pay the principal, interest and premium, if any, due with respect to bonds issued in whole for the purpose of this fund.
- (d) Any balance remaining in the fund at the end of any fiscal year shall not lapse, but shall remain in the fund accumulating interest from year to year. The moneys in this fund shall not be used for any purpose except those listed in this section.
- (e) The council shall by ordinance establish procedures for the administration and expenditure of moneys in this fund.
- (f) This fund shall be used for acquisition of land and easements and shall not be used for development, maintenance or for any purpose other than as provided in this section.
- (g) The highest and best use of this fund is to leverage the money in the fund by attracting matching funds, although, matching funds are not required in every purchase.
- (h) Any land acquired with this fund shall contain the following restrictive covenant in its recorded deed of conveyance: "This land 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."
- (i) Any easement acquired with this fund shall contain the following restrictive covenant in its recorded deed of conveyance: "This 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.""

SECTION 2. Charter material to be repealed is bracketed and stricken. New charter material is underscored. When revising, compiling, or printing these charter provisions for inclusion in the Charter of the County of Hawai'i, the reviser need not include the brackets, bracketed material, or underscoring.

SECTION 3. If any provision of this ordinance, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

SECTION 4. Upon adoption of this ordinance, this council, by appropriate resolution, shall provide that this amendment be submitted to the electorate of Hawai'i County for approval in the 2012 general election.

SECTION 5. The charter amendment proposed in this ordinance shall take effect upon its approval by a majority of voters voting on this legislation in the 2012 General Election, as duly certified. Notwithstanding the provisions of subsection (a), proration of the deposits affected by this legislation shall begin on November 7, 2012.

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