

DEPARTMENT OF PLANNING

COUNTY OF MAUI

Adoption of Title 12, Chapter 10-104

County of Maui Administrative Rules

1. Title 12, Chapter 10-104, County of Maui Administrative Rules, entitled "Rules of Practice and Procedure for the South Maui Community Plan Advisory Committee", is adopted to read as follows:

COUNTY OF MAUI ADMINISTRATIVE RULES

"TITLE MC-12

DEPARTMENT OF PLANNING

SUBTITLE 10

COMMUNITY PLAN ADVISORY COMMITTEE

CHAPTER 104

RULES OF PRACTICE AND PROCEDURE
FOR THE SOUTH MAUI COMMUNITY PLAN ADVISORY COMMITTEE

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SUBCHAPTER 1

GENERAL PROVISIONS

§10-104-1 Title. The rules in this chapter shall be known as the "Rules of Practice and Procedure of the South Maui Community Plan Advisory Committee" for the County of Maui. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §91-2, HRS)

§10-104-2 Purpose. These rules govern practice before, and procedures of, the South Maui community plan advisory committee. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §91-2, HRS)

§10-104-3 Construction. (a) These rules shall be construed to secure the just and efficient determination of proceedings before the South Maui community plan advisory committee. These rules should be read in conjunction with the Hawaii Revised Statutes, the Charter of the County of Maui (2021), as amended, and the Maui County Code. If there is a conflict between state law, the County Charter, or the Maui County Code and the provisions herein, state law, the Charter of the County of Maui, or the Maui County Code shall govern. (b) If there are conflicts between the general provisions herein and specific rules of any other subchapters, the specific rules shall govern. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §91-2, HRS)

§10-104-4 Definitions. The following definitions shall apply for all matters before the South Maui community plan advisory committee:

"Agency" means any agency, board, commission, committee, department or officer of the county or state government, including the South Maui community plan advisory committee.

"County" means the County of Maui.

"Department" means the department of planning of the County.

"Director" means the planning director of the County or the planning director's authorized representative.

"Government record" means information maintained by an agency in written, auditory, visual, electronic or other physical form, or as otherwise defined in chapter 92F, Hawaii Revised Statutes, as amended.

"South Maui CPAC" means the South Maui community plan advisory committee.

"Meetings" means the convening of the South Maui community plan advisory committee for which a quorum is required in order to make a decision or to deliberate toward a decision upon a matter over which the South Maui community plan advisory committee has supervision, control, jurisdiction, or advisory power.

"Person" means any agency, individual, partnership, firm, association, community group, trust, estate, private corporation, or other legal entity, whether or not incorporated, including governmental departments or agencies.

"Proceeding" means any matter brought before the committee over which the South Maui CPAC has jurisdiction. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §91-2, HRS)

SUBCHAPTER 2

ORGANIZATION AND PARLIAMENTARY RULES

§10-104-5 Office. The office of the South Maui CPAC is at One Main Plaza, 2200 Main Street, Suite 315, Wailuku, Maui, Hawaii 96793. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §91-2, HRS)

§10-104-6 Communications. Unless otherwise specifically directed, all communications to the South Maui CPAC shall be directed to the department, at One Main Plaza, 2200 Main Street, Suite 315, Wailuku, Maui, Hawaii 96793. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §91-2, HRS)

§10-104-7 Membership. The South Maui CPAC consists of thirteen members, four appointed by the mayor from the South Maui community plan area, and nine appointed by the council from the South Maui community plan area. Each South Maui CPAC member serves from the time the member is appointed until enactment of an ordinance adopting the decennial revision of the South Maui community plan. The South Maui CPAC may recommend to the mayor, for the mayor's appointee, or the council, for the council's appointee, the removal of any committee member who has three unexcused absences from scheduled meetings. [Eff] (Auth: §§2.80B.050, 2.80B.080, MCC) (Imp: §2.80B.080, MCC; §91-2, HRS)

§10-104-8 Meetings. (a) The South Maui CPAC may meet and exercise its powers anywhere within its

jurisdiction. Unless otherwise provided by law, all meetings shall be open to the public.

(b) The South Maui CPAC shall base the parliamentary procedures for conducting its meetings on the revised edition of Robert's Rules of Order. If there is a conflict between the provisions herein and Robert's Rules, the provisions herein shall apply.

(c) General meetings shall be scheduled as needed to efficiently conduct South Maui CPAC business.

(d) The South Maui CPAC shall allow all interested persons an opportunity to submit data, views, arguments, or present oral testimony on any agenda item in an open meeting. The South Maui CPAC may provide for the recordation of all oral testimony. A reasonable time limit may be imposed on oral testimony.

(e) The South Maui CPAC shall comply with chapter 92, Hawaii Revised Statutes, as amended.

(f) Special meetings may be called by the chairperson, the director, or a majority of the South Maui CPAC members at any time and place as scheduled.

(g) Emergency meetings and executive meetings may be held pursuant to chapter 92, Hawaii Revised Statutes, as amended.

(h) Public hearings may be held after thirty days notice, published in a newspaper of general circulation in the County of Maui.

(i) Executive meetings closed to the public may be held by the South Maui CPAC upon affirmative vote, taken at an open meeting of two-thirds of the members present; provided the affirmative vote constitutes the majority to which the South Maui CPAC is entitled. The matters specifically allowed by law, and the reason for holding such a meeting shall be publicly announced and the vote of each member on the question of holding the meeting closed to the public shall be recorded and entered into the minutes of the meeting. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §§91-2, 92-4, 92-5, HRS)

§10-104-9 Quorum. A majority of all members to which the South Maui CPAC is entitled shall constitute a quorum to transact business, and the concurrence of a majority of all members to which the South Maui CPAC is entitled shall be necessary to take any action. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §§91-2, 92-15, HRS)

§10-104-10 Agenda. The South Maui CPAC shall file an agenda with the county clerk at least six calendar days before the meeting. Nothing on the agenda shall be changed without a two-thirds recorded vote of all members to which the South Maui CPAC is entitled. An item of major importance that may affect a significant number of persons shall not be added to an agenda. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §91-2, HRS)

§10-104-11 Minutes. (a) The South Maui CPAC shall keep written minutes and may provide for the audio recording or transcription of meetings. The minutes shall give a true reflection of the matters discussed at the meeting and the views of the members. These minutes shall include, but need not be limited to:

- (1) The date, time, and place of the meeting;
- (2) The members of the South Maui CPAC recorded as either present or absent;
- (3) The substance of all matters proposed, discussed, or decided;
- (4) A record, by individual member, of any votes taken; and
- (5) Any other information that any member of the South Maui CPAC requests be included or reflected in the minutes.

(b) The written minutes shall be public records and shall be available within thirty days after the meeting except where such disclosure would be

inconsistent with section 92-5, Hawaii Revised Statutes, as amended; provided, that minutes of executive meetings may be withheld so long as their publication would defeat the lawful purpose of the executive meeting. Any person may obtain a copy of a transcript of an audio recording provided that the person pays the costs incurred in the preparation of the transcript. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §91-2, HRS)

§10-104-12 South Maui CPAC records. Records that are government records shall be disclosed according to chapter 92F, Hawaii Revised Statutes. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §§91-2, 92-9, HRS)

§10-104-13 Computation of time. In computing any period of time under the rules herein, by notice, or by any order or rule of the South Maui CPAC, the time begins with the day following the act, event, or default, and includes the last day of the period unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or holiday. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §91-2, HRS)

§10-104-14 Retention of documents by the South Maui CPAC. All documents filed with, or presented to, the South Maui CPAC shall be retained in the files of the South Maui CPAC. However, the chairperson of the South Maui CPAC may permit the withdrawal of original documents upon submission of properly authenticated copies. [Eff] (Auth: §2.80B.080, MCC; §91-2, HRS) (Imp: §2.80B.080, MCC; §91-2, HRS)

§10-104-15 Officers and their duties. (a) The committee shall elect a chairperson and vice-chairperson from its members.

(b) The chairperson shall be the presiding officer of the South Maui CPAC, and the vice-chairperson shall act as the presiding officer in the absence of the chairperson. The presiding officer shall:

- (1) Open all meetings of the South Maui CPAC at the appointed hour by taking the chair and calling the meeting to order;
- (2) Maintain order and proper decorum;
- (3) Announce the business before the South Maui CPAC;
- (4) Review all matters properly brought before the South Maui CPAC, call for votes upon the same, and announce the results;
- (5) Authenticate by signature all acts of the South Maui CPAC as may be required by law, unless delegated to the director;
- (6) Do and perform such other duties as may be required by law, or such as may properly pertain to such office;
- (7) Make known all rules of order when so requested, and decide all questions of order subject to an appeal to the South Maui CPAC.
[Eff] (Auth: §2.80B.080, MCC; §91-2, HRS)
(Imp: §2.80B.080, MCC; §§91-2, 92-3, HRS)

§10-104-16 Voting. (a) Except as otherwise provided by law, all matters shall be determined by an affirmative vote of a majority of the membership to which the South Maui CPAC is entitled.

(b) Whenever the South Maui CPAC is ready to vote on any question the chairperson shall state the question,

put the question to a vote, and announce the results to the South Maui CPAC.

(c) Unless a present member is disqualified from voting pursuant to section 10-104-17 herein, the member's silence or refusal to vote shall be recorded as an affirmative vote. [Eff] (Auth: §2.80B.080, MCC; §91-2, HRS) (Imp: §2.80B.080, MCC; §§91-2, 92-15, HRS)

§10-104-17 Disclosure of conflict. Whenever a member has a conflict of interest, the member shall promptly make a full disclosure of the circumstances to the South Maui CPAC and refrain from voting. [Eff] (Auth: §2.80B.080, MCC; §91-2, HRS) (Imp: §2.80B.080, MCC; §91-2, HRS)

§10-104-18 Motions. (a) Motions and amendments by South Maui CPAC members may be oral, but shall be reduced to writing if requested by the chairperson.

(b) No motion shall be received and considered by the South Maui CPAC until the same has been seconded.

(c) After a motion is stated or read by the chairperson, it shall be deemed in the possession of, and shall be disposed of by vote of, the South Maui CPAC. [Eff] (Auth: §2.80B.080, MCC; §91-2) (Imp: §2.80B.080, MCC; §91-2, HRS)

§10-104-19 Question of order. A question of order may be raised at any stage of the proceedings, except during a calling of the roll when the ayes and noes are called for. The question shall be decided by the chairperson, without debate, subject to an appeal to the South Maui CPAC. [Eff] (Auth: §2.80B.080, MCC; §91-2, HRS) (Imp: §2.80B.080, MCC; §91-2, HRS)

§10-104-20 Attendance. No member shall be absent from the service of the South Maui CPAC, unless the member is sick or otherwise unable to attend. If a member will be absent, the member shall inform the chairperson or the planning director's secretary before the meeting. [Eff] (Auth: §2.80B.080, MCC; §91-2, HRS) (Imp: §2.80B.080, MCC; §91-2, HRS)

SUBCHAPTER 3

RULE MAKING PROCEDURES AND DECLARATORY RULINGS

§10-104-21 South Maui CPAC rules. All rules of the South Maui CPAC shall be adopted by the South Maui CPAC and approved by the mayor in accordance with Hawaii Revised Statutes; provided, that such procedure shall not apply to regulations concerning only the internal management of the department or the South Maui CPAC not affecting the private rights of, or procedures available to, the public, to declaratory rulings, or to intra-agency memoranda. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §§91-1(4), 91-2, HRS)

§10-104-22 Petition and procedures for adoption, amendment, or repeal of rules by the South Maui CPAC.

(a) The South Maui CPAC may adopt, amend, or repeal any of its rules by following the procedures outlined herein, except that the South Maui CPAC need not formally file a petition and need only submit a draft of the proposed changes.

(b) Public hearing; notice. When the South Maui CPAC proposes to adopt, amend, or repeal a rule, it shall schedule a public hearing by giving thirty days notice. Notice shall include a statement of the substance of the proposed rule, and the date, time, and place of the public hearing where interested persons may be heard. Notice shall be published at least once, pursuant to section 1-28.5, Hawaii Revised Statutes, and shall be mailed to all persons who have made a timely, written request of the South Maui CPAC for advanced notice of its rulemaking proceedings.

(c) Scope. All interested persons shall be given the opportunity to submit data, views, or written or

oral argument. The South Maui CPAC shall incorporate in the record and consider all written or oral submissions regarding the proposed rule.

(d) Decision. The South Maui CPAC may make its decision at the public hearing or announce then the date it intends to make its decision. Upon adoption, amendment, or repeal of a rule, the agency shall, if requested to do so by an interested person, issue a concise statement of reasons for and against its determination.

(e) Mayoral approval. The adoption, amendment, or repeal of any rule shall be subject to mayoral approval.

(f) Emergency rules. If the South Maui CPAC finds an imminent peril to public health or safety which requires adoption, amendment, or repeal of a rule upon less than thirty days notice of hearing, and states its reasons in writing, it may proceed without prior notice or hearing or upon such abbreviated notice and hearing as practicable.

(g) Filing; effect. Upon mayoral approval, certified copies of all rules shall be filed in the office of the county clerk and shall become effective ten days thereafter.

(h) Emergency rules; effect; notice. Emergency rules shall be effective upon filing, but for not longer than one hundred twenty days without renewal. The South Maui CPAC shall publish a copy of the emergency rule at least once pursuant to section 1-28.5, Hawaii Revised Statutes, within five days of filing of the rule. [Eff] (Auth: §2.80B.080, MCC; §91-2, HRS) (Imp: §§1-28.5, 91-3, 91-4, 91-6, HRS)

§10-104-23 Petition for adoption, amendment, or repeal of rules by interested persons. (a) Any interested person may petition the South Maui CPAC

requesting the adoption, amendment, or repeal of any rule of the rules of the South Maui CPAC.

(b) The petition shall be submitted in thirteen copies and shall include:

(1) A statement of the nature of the petitioner's interest;

(2) A draft or the substance of the proposed rule or amendment or a designation of the provision sought to be repealed; and

(3) An explicit statement of the reasons in support of the proposed rule, amendment, or repeal.

(c) The South Maui CPAC shall within thirty days after the submission of the petition either deny the petition in writing, stating its reasons for such denial, or initiate proceedings in accordance with section 10-102-22, for the adoption, amendment, or repeal of the rule as the case may be." [Eff] (Auth: HRS §91-6) (Imp: HRS §2.80B.080, MCC)

2. Chapter 10-104, Rules of Practice and Procedure for the South Maui Community Plan Advisory Committee, shall take effect ten days after filing with the Office of the County Clerk.

ADOPTED THIS _____ day of _____, 2022.

SOUTH MAUI COMMUNITY PLAN
ADVISORY COMMITTEE

Chairperson

MICHAEL P. VICTORINO
Mayor, County of Maui

Approved this _____ day of
_____, 2022.

APPROVED AS TO FORM
AND LEGALITY:

MICHAEL J. HOPPER
Deputy Corporation Counsel

Received this _____ day of
_____, 2022.

KATHY KAOHU
County Clerk, County of Maui
LF2022-0715
Administrative Rules for South Maui CPAC

CERTIFICATION

I, MICHELE CHOUREAU MCLEAN, Planning Director, County of Maui, does hereby certify:

1. That the foregoing is a full, true and correct copy of the rules drafted in Ramseyer format, pursuant to the requirements of Section 91-4.1, Hawaii Revised Statutes, which were adopted on the _____ day of _____, 2022, following a public hearing that closed on the _____ day of _____, 2022, and which were filed with the Office of the County Clerk.

2. That the notice of public hearing on the foregoing Rules, which notice included the substance of such Rules, was published in The Maui News on _____, 2022.

MICHELE CHOUREAU MCLEAN
Planning Director