

DEPARTMENT OF PLANNING

COUNTY OF MAUI

Adoption of Chapter 12-101  
Rules of Practice and Procedure for the  
Lanai Community Plan Advisory Committee

SUMMARY

Chapter 12-101, entitled "Rules of Practice and Procedure for the Lanai Community Plan Advisory Committee", is adopted to read as follows:

"TITLE MC-12

DEPARTMENT OF PLANNING

SUBTITLE 10

COMMUNITY PLAN ADVISORY COMMITTEE

CHAPTER 101

RULES OF PRACTICE AND PROCEDURE  
FOR THE LANAI COMMUNITY PLAN ADVISORY COMMITTEE

Subchapter 1 General Provisions

|           |              |
|-----------|--------------|
| §12-101-1 | Title        |
| §12-101-2 | Purpose      |
| §12-101-3 | Construction |
| §12-101-4 | Definitions  |

Subchapter 2 Organization and Parliamentary Rules

|            |   |
|------------|---|
| §12-101-5  | Office                                      |
| §12-101-6  | Communications                              |
| §12-101-7  | Membership                                  |
| §12-101-8  | Meetings                                    |
| §12-101-9  | Quorum                                      |
| §12-101-10 | Agenda                                      |
| §12-101-11 | Minutes                                     |
| §12-101-12 | Lanai CPAC records                          |
| §12-101-13 | Computation of time                         |
| §12-101-14 | Retention of documents by the Lanai<br>CPAC |
| §12-101-15 | Officers and their duties                   |
| §12-101-16 | Voting                                      |
| §12-101-17 | Disclosure of conflict                      |
| §12-101-18 | Motions                                     |
| §12-101-19 | Question of order                           |
| §12-101-20 | Attendance                                  |

Subchapter 3 Rule Making Procedures and  
Declaratory Rulings

- §12-101-21 Lanai CPAC rules
- §12-101-22 Petition and procedures for adoption,  
amendment, or repeal of rules by the  
Lanai CPAC
- §12-101-23 Petition for adoption, amendment, or  
repeal of rules by interested persons

## SUBCHAPTER 1

### GENERAL PROVISIONS

§12-101-1 Title. The rules in this chapter shall be known as the "Rules of Practice and Procedure of the Lanai Community Plan Advisory Committee" for the County of Maui. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §91-2, HRS)

§12-101-2 Purpose. These rules govern practice before, and procedures of, the Lanai community plan advisory committee. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §91-2, HRS)

§12-101-3 Construction. (a) These rules shall be construed to secure the just and efficient determination of proceedings before the Lanai community plan advisory committee. These rules should be read in conjunction with the Hawaii Revised Statutes, the Charter of the County of Maui, 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)

§12-101-4 Definitions. The following definitions shall apply for all matters before the Lanai community plan advisory committee:

"Agency" means any agency, board, commission, committee, department or officer of the county or state government, including the Lanai 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.

"Lanai CPAC" means the Lanai community plan advisory committee.

"Meetings" means the convening of the Lanai 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 Lanai 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 Lanai CPAC has jurisdiction.  
[Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §91-2, HRS)

## SUBCHAPTER 2

### ORGANIZATION AND PARLIAMENTARY RULES

§12-101-5 Office. The office of the Lanai CPAC is at 250 South High Street, Wailuku, Maui, Hawaii 96793. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §91-2, HRS)

§12-101-6 Communications. Unless otherwise specifically directed, all communications to the Lanai CPAC shall be directed to the department, at the Kalana Pakui (County Annex), 250 South High Street, Wailuku, Maui, Hawaii 96793. [Eff] (Auth: §2.80B.080, MCC) (Imp: §2.80B.080, MCC; §91-2, HRS)

§12-101-7 Membership. The Lanai CPAC consists of thirteen members, four appointed by the mayor from the Lanai community plan area, and nine appointed by the council from the Lanai community plan area. Each Lanai CPAC member serves from the time the member is appointed until enactment of an ordinance adopting the decennial revision of the Lanai community plan. [Eff] (Auth: §§2.80B.050, 2.80B.080, MCC) (Imp: §2.80B.080, MCC; §91-2, HRS)

§12-101-8 Meetings. (a) The Lanai 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 Lanai 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 Lanai CPAC business.

(d) The Lanai 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 Lanai CPAC may provide for the recordation of all oral testimony. A

reasonable time limit may be imposed on oral testimony, which shall not be less than three minutes per person.

(e) The Lanai 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 Lanai 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 County circulation.

(i) Executive meetings closed to the public may be held by the Lanai 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 Lanai CPAC is entitled. The meeting, closed to the public, shall be limited to 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)

§12-101-9 Quorum. A majority of all members to which the Lanai CPAC is entitled shall constitute a quorum to transact business, and the concurrence of a majority of all members to which the Lanai 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)

§12-101-10 Agenda. The Lanai 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 Lanai 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)

§12-101-11 Minutes. (a) The Lanai 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 Lanai 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 Lanai 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)

§12-101-12 Lanai 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)

§12-101-13 Computation of time. In computing any period of time under the rules herein, by notice, or by any order or rule of the Lanai 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)

§12-101-14 Retention of documents by the Lanai CPAC. All documents filed with, or presented to, the Lanai CPAC shall be retained in the files of the Lanai CPAC. However, the chairperson of the Lanai 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)

§12-101-15 Officers and their duties. Presiding officer. The chairperson shall be the presiding officer of the Lanai 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 Lanai 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 Lanai CPAC;
  - (4) Review all matters properly brought before the Lanai CPAC, call for votes upon the same, and announce the results;
  - (5) Authenticate by signature all acts of the Lanai 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 Lanai CPAC.
- [Eff] (Auth: §2.80B.080, MCC; §91-2, HRS)  
(Imp: §2.80B.080, MCC; §§91-2, 92-3, HRS)

§12-101-16 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 Lanai CPAC is entitled.

(b) Whenever the Lanai 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 Lanai CPAC.

(c) Unless a present member is disqualified from voting pursuant to section 12-101-17 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)

§12-101-17 Disclosure of conflict. Whenever a member has a conflict of interest, the member shall promptly make a full disclosure of the circumstances to the Lanai CPAC and refrain from voting. [Eff] (Auth: §2.80B.080, MCC; §91-2, HRS) (Imp: §2.80B.080, MCC; §91-2, HRS)

§12-101-18 Motions. (a) Motions and amendments by Lanai 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 Lanai 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 Lanai CPAC. [Eff] (Auth: §2.80B.080, MCC; §91-2) (Imp: §2.80B.080, MCC; §91-2, HRS)

§12-101-19 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 Lanai CPAC. [Eff] (Auth: §2.80B.080, MCC; §91-2, HRS) (Imp: §2.80B.080, MCC; §91-2, HRS)

§12-101-20 Attendance. No member shall be absent from the service of the Lanai 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

§12-101-21 Lanai CPAC rules. All rules of the Lanai CPAC shall be adopted by the Lanai 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 Lanai 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)

§12-101-22 Petition and procedures for adoption, amendment, or repeal of rules by the Lanai CPAC. (a) The Lanai CPAC may adopt, amend, or repeal any of its rules by following the procedures outlined herein, except that the Lanai CPAC need not formally file a petition and need only submit a draft of the proposed changes.

(b) Public hearing; notice. When the Lanai 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 Lanai 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 Lanai CPAC shall incorporate in the record and consider all written or oral submissions regarding the proposed rule.

(d) Decision. The Lanai 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 Lanai 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 Lanai 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)

§12-101-23 Petition for adoption, amendment, or repeal of rules by interested persons. (a) Any interested person may petition the Lanai CPAC requesting the adoption, amendment, or repeal of any rule of the rules of the Lanai 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 Lanai 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 12-

101-22, 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 12-101, Rules of Practice and  
Procedure for the Lanai Community Plan Advisory  
Committee, shall take effect ten days after filing  
with the Office of the County Clerk.

ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

LANAI COMMUNITY PLAN ADVISORY  
COMMITTEE

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Alan M. Arakawa  
Mayor, County of Maui

Approved this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

APPROVED AS TO FORM  
AND LEGALITY:

\_\_\_\_\_  
JAMES A. GIROUX  
Deputy Corporation Counsel  
County of Maui

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Received this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
JEFFREY KUWADA  
County Clerk, County of Maui

CERTIFICATION

I, WILLIAM R. SPENCE, Planning Director, County of Maui, do 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 \_\_\_\_\_, 20\_\_\_\_, following a public hearing that closed on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, 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 \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
WILLIAM R. SPENCE  
Planning Director