

INITIATOR: PLANNING DIRECTOR
AMENDMENT TO CHAPTER 25 (ZONING CODE), ARTICLE 1, ARTICLE 2,
ARTICLE 4, ARTICLE 5, AND ARTICLE 7, OF THE HAWAI'I COUNTY CODE 1983
(2016 EDITION, AS AMENDED)
RELATING TO DEFINITIONS, USE PERMIT REQUIREMENTS, PARKING
REQUIREMENTS, AND ZONING DISTRICT REGULATIONS FOR MEDICAL
CLINICS AND MASSAGE, ACUPUNCTURE, CHIROPRACTIC AND OTHER
SIMILAR HEALTH SERVICE FACILITIES
REVISED RECOMMENDATION

At the Leeward Planning Commission meeting held on October 15, 2020, the Commission indicated the medical clinic definition was ambiguous in that it was not clear whether the definition applied to only doctors and dentists or other medical professionals. The Commission also indicated that a Use Permit should be required for medical clinics and similar health service facilities in the Multi-Family Residential (RM) zoning district since this is not a 'residential' use and is more commercial in nature.

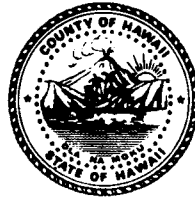
Based on this feedback, the Planning Director is recommending two changes to the draft bill submitted as Planning Department Exhibit 1. The changes shown in **Planning Department Exhibit 2** are: 1) to combine massage, acupuncture, chiropractic, and other similar health service facilities into the medical clinic definition, and 2) to require a Use Permit in the Multi-Family Residential (RM) zoning district for medical clinics.

This is an effort of the Director to address concerns that were raised between the definition of a Medical Clinic versus a Massage, Acupuncture, Chiropractic, and other similar health service facilities. The Director is therefore proposing that a Massage, Acupuncture, Chiropractic, and other similar health service facilities be listed under the Medical Clinic definition and revised throughout the bill. With this change medical clinics (inclusive of massage, acupuncture, chiropractic, and other similar health services) would require a Use Permit in the RS, RD, RM, RA, FA and A zoning districts. The current Zoning Code allows medical clinics in the RCX, CN, CV, CG, MCX, V, and CDH zoning districts as a permitted use, without the need for a Use Permit.

RECOMMENDATION

For the reasons cited above, the Planning Director recommends that the Leeward Planning Commission send a **favorable recommendation of this bill (P.D. Exhibit 2) to the**

Hawai'i County Council for the amendment to Chapter 25 (Zoning), Article 1, Article 2, Article 4, Article 5 and Article 7 of the Hawai'i County Code 1983 (2016 edition) relating to definitions, use permit requirements, parking requirements, and zoning district regulations for medical clinics and massage, acupuncture, chiropractic and other similar health service facilities.

BILL NO. _____
(PLANNING DEPT)

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 25, ARTICLE 1, ARTICLE 2, ARTICLE 4, ARTICLE 5 AND ARTICLE 7 OF THE HAWAII COUNTY CODE 1983 (2016 EDITION, AS AMENDED), RELATING TO DEFINITIONS, USE PERMIT REQUIREMENTS, PARKING REQUIREMENTS, AND ZONING DISTRICT REGULATIONS FOR MEDICAL CLINICS AND MASSAGE, ACUPUNCTURE, CHIROPRACTIC AND OTHER SIMILAR HEALTH SERVICE FACILITIES.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Purpose. The purpose of this proposed amendment is to provide further clarification to the definition of medical clinics and personal services establishments, and identify the zoning districts where medical clinics and massage, chiropractic, acupuncture, and other similar health service facilities will require a Use Permit.

SECTION 2. Chapter 25, article 1, section 25-1-5, subsection (b) of the Hawaii County Code 1983 (2016 Edition, as amended), is amended by amending the definitions of "medical clinic" and "personal services establishment" to read as follows:

““Medical clinic” means an office building or group of offices for persons engaged in the practice of a medical or dental profession or occupation. A medical clinic does not have beds for overnight care of patients but can involve the treatment of outpatients. A “medical profession or occupation” is any activity involving the diagnosis, cure, treatment, mitigation or prevention of disease or which affects any bodily function[~~, but does not include chiropractic and massage treatment and services~~]. This includes massage, acupuncture, chiropractic, and other similar health service facilities.”

“Personal services establishment” means an establishment which offers specialized goods and services purchased frequently by the consumer. Included are barbershops, beauty shops, [~~massage facilities, chiropractic clinics,~~] garment repair, laundry cleaning, pressing, dyeing, tailoring, shoe repair and other similar establishments.”

SECTION 3. Chapter 25, article 2, division 6, section 25-2-61 of the Hawaii County Code 1983 (2016 Edition, as amended), is amended by amending subsection (a) to read as follows:

“(a) The following uses shall be permitted within designated County zoning districts only if a use permit is obtained for the use from the commission:

Planning Dept.
Exhibit 2

- (1) Bed and breakfast establishments in RS, RA, FA, and A districts, provided that the property is within the state land use urban district.
- (2) Crematoriums, funeral homes, funeral services and mortuaries in RS, RD, RM, RCX, RA, FA, A and V districts.
- (3) Churches, temples and synagogues, including meeting facilities for churches, temples, synagogues and other such institutions, in RS, RD, RM, RA, FA and A districts; provided that a minimum building site area of ten thousand square feet is required within the RS, RD, RM, and RA districts.
- (4) Day care centers in RS, RD, RM, RA, FA and A districts, provided that a minimum building site area of ten thousand square feet shall be required within the RS, RD, RM, and RA districts.
- (5) Golf courses and related golf course uses including golf driving ranges, golf maintenance buildings, and golf club houses in the RS, RD, RM, RCX, RA, FA, A, V, CG, CV, and O districts, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
- (6) Group living facilities that exceed the criteria in subsection 25-1-5(b), paragraph (b) of the definition of "group living facility" in the RS, RD, RM, RCX, RA, FA, A, CN, CG, CV, and V districts.
- (7) Hospitals, sanitariums, old age, convalescent, nursing and rest homes ~~[and other similar uses devoted to the care or treatment of the aged, the sick, or the infirm]~~ in the RS, RD, RM, RCX, RA, FA, A, and V districts, provided that a minimum building site area of ten thousand square feet shall be required within the RS, RD, RM, RCX and RA districts.
- (8) Major outdoor amusement and recreation facilities in RCX, RA, A, CN, CG, CV, MCX, ML, MG and O districts.
- (9) Medical clinics in RS, RD, RM, RA, FA, and A districts.
- ~~[(9)]~~(10) Schools in RS, RD, RM, RA, FA, A, V, MCX, ML, and MG districts, provided that a minimum building site area of ten thousand square feet shall be required within the RS, RD, RM, and RA districts.
- ~~[(10)]~~(11) Telecommunication antennas and towers in RS, RD, RM, RCX, RA, FA, A, IA and O districts.
- ~~[(11)]~~(12) Yacht harbors and boating facilities in the RS, RD, RM, RCX, RA, V, CG, CV, MCX, ML, MG and O districts.
- ~~[(12)]~~(13) Wind energy facilities in the O district; provided that the property is within the state land use agricultural district.
- ~~[(13)]~~(14) Other unusual and reasonable uses which are not specifically permitted in any zoning district with the approval of the director and the concurrence of the council by resolution."

SECTION 4. Chapter 25, article 4, division 5, section 25-4-51 of Hawai'i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (a) to read as follows:

"(a) The number of parking spaces for each use shall be as follows:

- (1) Agricultural tourism: one for each three hundred square feet of gross floor area used principally for the agricultural tourism activity, but not fewer than three spaces, plus bus parking if buses are allowed.
- (2) Bed and breakfast establishments: one for each guest bedroom, in addition to one for the dwelling unit.
- (3) Bowling alleys: four for each alley.
- (4) Commercial uses, including retail and office uses in RS, RD, RM, RCX, CN, CG, CV, MCX, V, RA, FA, A and IA districts: one for each three hundred square feet of gross floor area.”

SECTION 5. Chapter 25, article 5, division 1, section 25-5-3 of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (b) to read as follows:

- “(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RS district, provided that a use permit is issued for each use:
- (1) Bed and breakfast establishments as permitted under section 25-4-7.
 - (2) Care homes.
 - (3) Churches, temples and synagogues.
 - (4) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (5) Day care centers.
 - (6) Golf courses and related golf courses uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
 - (7) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
 - (8) Medical clinics.
 - ~~[(8)]~~(9) Schools.
 - ~~[(9)]~~(10) Telecommunication antennas and towers.
 - ~~[(10)]~~(11) Yacht harbors and boating facilities.”

SECTION 6. Chapter 25, article 5, division 2, section 25-5-22 of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (b) to read as follows:

- “(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RD district, provided that a use permit is issued for each use:
- (1) Care homes.
 - (2) Churches, temples and synagogues.
 - (3) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (4) Day care centers.
 - (5) Golf courses and related golf courses uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.

- (6) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
- (7) Medical clinics.
- ~~[(7)]~~(8) Schools.
- ~~[(8)]~~(9) Telecommunication antennas and towers.
- ~~[(9)]~~(10) Yacht harbors and boating facilities.”

SECTION 7. Chapter 25, article 5, division 3, section 25-5-32 of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (b) to read as follows:

- “(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RM district, provided that a use permit is issued for each use:
- (1) Care homes.
 - (2) Churches, temples and synagogues.
 - (3) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (4) Day care centers.
 - (5) Golf courses and related golf courses uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
 - (6) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
 - (7) Medical clinics.
 - ~~[(7)]~~(8) Schools.
 - ~~[(8)]~~(9) Telecommunication antennas and towers.
 - ~~[(9)]~~(10) Yacht harbors and boating facilities.”

SECTION 8. Chapter 25, article 5, division 5, section 25-5-52 of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (d) to read as follows:

- “(d) The following uses may be permitted in the RA district, provided that either a use permit is issued for each use if the building site is within the State land use urban district or a special permit is issued for each use if the building site is within the State land use rural district:
- (1) Bed and breakfast establishments, as permitted under section 25-4-7.
 - (2) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (3) Churches, temples and synagogues.
 - (4) Day care centers.
 - (5) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
 - (6) Major outdoor amusement and recreation facilities, includes stadiums, sports arenas, and other similar open air recreational uses.
 - (7) Medical Clinics.
 - ~~[(7)]~~(8) Schools.
 - ~~[(8)]~~(9) Yacht harbors and boating facilities.”

SECTION 9. Chapter 25, article 5, division 6, section 25-5-62 of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (d) to read as follows:

- “(d) The following uses may be permitted in the FA district, provided that either a use permit is issued for each use if the building site is within the State land use agricultural district or a special permit is issued for each use if the building site is within the State land use agricultural district:
- (1) Bed and breakfast establishments, as permitted under section 25-4-7.
 - (2) Churches, temples and synagogues.
 - (3) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (4) Day care centers.
 - (5) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
 - (6) Major outdoor amusement and recreation facilities, includes stadiums, sports arenas, and other similar open air recreational uses.
 - (7) Medical clinics.
- ~~[(7)]~~(8) Schools.”

SECTION 10. Chapter 25, article 5, division 7, section 25-5-72 of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (d) to read as follows:

- “(d) The following uses may be permitted in the A district, provided that either a use permit is issued for each use if the building site is outside of the State land use agricultural district or a special permit is issued for each use if the building site is within the State land use agricultural district:
- (1) Bed and breakfast establishments, as permitted under section 25-4-7.
 - (2) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (3) Churches, temples and synagogues.
 - (4) Day care centers.
 - (5) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
 - (6) Major outdoor amusement and recreation facilities.
 - (7) Medical clinics.
- ~~[(7)]~~(8) Schools.”

SECTION 11. Chapter 25, article 5, division 11, section 25-5-112 of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (a) to read as follows:

- “(a) The following uses shall be permitted uses in the CG district:
- (1) Adult day care homes.
 - (2) Amusement and recreation facilities, indoor.
 - (3) Art galleries, museums.
 - (4) Art studios.
 - (5) Automobile service stations.
 - (6) Automobile sales and rentals.

- (7) Bars, nightclubs and cabarets.
- (8) Bed and breakfast establishments, as permitted under section 25-4-7.
- (9) Boarding facilities, rooming, or lodging houses, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
- (10) Broadcasting stations.
- (11) Business services.
- (12) Car washing, provided that if it is mechanized, sound attenuated structures or sound attenuated walls shall be erected and maintained on the property lines.
- (13) Catering establishments.
- (14) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
- (15) Churches, temples and synagogues.
- (16) Cleaning plants using only nonflammable hydrocarbons in a sealed unit as the cleansing agent.
- (17) Commercial parking lots and garages.
- (18) Community buildings, as permitted under section 25-4-11.
- (19) Convenience stores.
- (20) Crematoriums, funeral homes, funeral services, and mortuaries.
- (21) Crop production.
- (22) Day care centers.
- (23) Display rooms for products sold elsewhere.
- (24) Dwellings, double-family or duplex, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
- (25) Dwellings, multiple-family, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
- (26) Dwellings, single-family.
- (27) Equipment sales and rental yards, and other yards where retail products are displayed in the open.
- (28) Family child care homes.
- (29) Farmers markets. When the vending activity in a farmers market involves more than just the sale of local fresh and/or raw produce, plant life, fish and local homegrown and homemade products for more than two days a week, the director, at the time of plan approval, shall restrict the hours of use, maintenance and operations and may require improvements as determined appropriate to ensure its compatibility with the existing character of the surrounding area.
- (30) Financial institutions.
- (31) Group living facilities.
- (32) Home occupations, as permitted under section 25-4-13.
- (33) Hospitals, sanitariums, old age, convalescent, nursing and rest homes [~~and other similar uses~~].
- (34) Hotels.
- (35) Ice storage and dispensing facilities.
- (36) Laboratories, medical and research.
- (37) Laundries.

- (38) Light manufacturing, processing and packaging, where the only retail sales outlet for products produced is on the premises where produced.
- (39) Medical clinics.
- (40) Meeting facilities.
- (41) Model homes, as permitted under section 25-4-8.
- (42) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
- (43) Offices.
- (44) Personal services.
- (45) Photography studios.
- (46) Public uses and structures, as permitted under section 25-4-11.
- (47) Printing shops, cartographing and duplicating processes such as blueprinting or photostating shops.
- (48) Repair establishments, minor.
- (49) Restaurants.
- (50) Retail establishments.
- (51) Schools.
- (52) Short-term vacation rentals.
- (53) Telecommunication antennas, as permitted under section 25-4-12.
- (54) Theaters.
- (55) Time share units.
- (56) Utility substations, as permitted under section 25-4-11.
- (57) Veterinary establishments.”

SECTION 12. Chapter 25, article 5, division 12, section 25-5-122 of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (a) to read as follows:

“(a) The following uses shall be permitted uses in the CV district:

- (1) Adult day care homes.
- (2) Amusement and recreation facilities, indoor.
- (3) Art galleries, museums.
- (4) Automobile sales and rentals.
- (5) Automobile service stations
- (6) Bars.
- (7) Bed and breakfast establishments, as permitted under section 25-4-7.
- (8) Boarding facilities, rooming, or lodging houses, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
- (9) Business services.
- (10) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
- (11) Churches, temples and synagogues.
- (12) Commercial parking lots and garages.
- (13) Community buildings, as permitted under section 25-4-11.
- (14) Convenience stores.
- (15) Crematoriums, funeral homes, funeral services, and mortuaries.

- (16) Crop production.
- (17) Day care centers.
- (18) Dwellings, double-family or duplex, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
- (19) Dwellings, multiple-family, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
- (20) Dwellings, single-family.
- (21) Family child care homes.
- (22) Farmers markets. When the vending activity in a farmers market involves more than just the sale of local fresh and/or raw produce, plant life, fish and local homegrown and homemade products for more than two days a week, the director, at the time of plan approval, shall restrict the hours of use, maintenance and operations and may require improvements as determined appropriate to ensure its compatibility with the existing character of the surrounding area.
- (23) Financial institutions.
- (24) Group living facilities.
- (25) Home occupations, as permitted under section 25-4-13.
- (26) Hospitals, sanitariums, old age, convalescent, nursing and rest homes [~~and other similar uses~~].
- (27) Hotels, when the design and use conform to the character of the area, as approved by the director.
- (28) Laboratories, medical and research.
- (29) Lodges.
- (30) Manufacturing, processing and packaging light and general, except for concrete or asphalt products, where the products are distributed to retail establishments located in the immediate community, as approved by the director.
- (31) Medical clinics.
- (32) Meeting facilities.
- (33) Model homes, as permitted under section 25-4-8.
- (34) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
- (35) Offices.
- (36) Personal services.
- (37) Photography studios.
- (38) Public uses and structures, as permitted under section 25-4-11.
- (39) Publishing plants for newspapers, books and magazines, printing shops, cartographing, and duplicating processes such as blueprinting or photostating shops, which are designed to primarily serve the local area.
- (40) Repair establishments, major, when there are not more than five employees, as approved by the director.
- (41) Repair establishments, minor.
- (42) Restaurants.
- (43) Retail establishments.
- (44) Schools.

- (45) Short-term vacation rentals.
- (46) Telecommunication antennas, as permitted under section 25-4-12.
- (47) Temporary real estate offices, as permitted under section 25-4-8.
- (48) Theaters.
- (49) Utility substations, as permitted under section 25-4-11.”

SECTION 13. Chapter 25, article 7, division 2, section 25-7-22 of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (a) to read as follows:

“(a) The following uses shall be permitted uses in the CDH district:

- (1) Adult day care homes.
- (2) Amusement and recreation facilities, indoor.
- (3) Art galleries.
- (4) Automobile service stations or garages, excluding body and fenderworks, electric tire rebuilding or battery rebuilding and provided that all work is conducted wholly within a completely enclosed building.
- (5) Bakeries.
- (6) Bars, cocktail lounges and night clubs.
- (7) Bed and breakfast establishments, as permitted under section 25-4-7.
- (8) Boarding facilities, rooming, or lodging houses.
- (9) Broadcasting stations or studios (radio and television).
- (10) Business services.
- (11) Car washing, provided that the facilities are not detrimental to the character of the district.
- (12) Commercial parking lots and garages.
- (13) Community buildings, as permitted under section 25-4-11.
- (14) Crop production.
- (15) Display rooms for products sold elsewhere.
- (16) Dwellings, double-family or duplex, with a maximum density of five hundred square feet of land area per rentable unit or dwelling unit.
- (17) Dwellings, multiple-family, with a maximum density of five hundred square feet of land area per rentable unit or dwelling unit.
- (18) Dwellings, single-family.
- (19) Family child care homes.
- (20) Farmers markets. When the vending activity in a farmers market involves more than just the sale of local fresh and/or raw produce, plant life, fish and local homegrown and homemade products for more than two days a week, the director, at the time of plan approval, shall restrict the hours of use, maintenance and operations and may require improvements as determined appropriate to ensure its compatibility with the existing character of the surrounding area.
- (21) Financial institutions.
- (22) Group living facilities.
- (23) Home occupations, as permitted under section 25-4-13.
- (24) Hospitals, sanitariums, old age, convalescent, nursing and rest homes [~~and other similar uses~~].

- (25) Hotels and apartment hotels with a maximum density of five hundred square feet of land area per rentable unit.
- (26) Laundries other than those utilizing steam cleaning equipment, provided that the facilities are not detrimental to the character of the district.
- (27) Manufacturing, processing and packaging, light, provided that the activities are not detrimental to the character of the district.
- (28) Medical clinics.
- (29) Meeting facilities.
- (30) Model homes, as permitted under section 25-4-8.
- (31) Modeling agencies.
- (32) Museums and libraries.
- (33) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
- (34) Offices.
- (35) Personal services.
- (36) Photography and artist studios.
- (37) Public uses and structures, as permitted under section 25-4-11.
- (38) Publishing plants for newspapers, books and magazines, printing shops, cartographing and duplicating processes such as blueprinting or photostating.
- (39) Repair establishments, minor.
- (40) Restaurants.
- (41) Retail establishments, provided that they are not detrimental to the character of the district.
- (42) Schools, business.
- (43) Schools, photography, art, music, dance or other similar studios or academies.
- (44) Schools, vocational.
- (45) Telecommunication antennas, as permitted under section 25-4-12.
- (46) Temporary real estate offices, as permitted under section 25-4-8.
- (47) Theaters, auditoriums and indoor sports arenas.
- (48) Utility substations, as permitted under section 25-4-11."

SECTION 14. Material to be repealed is bracketed and stricken. New material is underscored. In printing this ordinance, the brackets, bracketed and stricken material and underscoring need not be included.

SECTION 15. Severability. 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 declared to be severable.

SECTION 16. This ordinance shall take effect upon its approval.

INTRODUCED BY:

COUNCIL MEMBER, COUNTY OF HAWAI'I

_____, Hawai'i

Date of Introduction:

Date of 1st Reading:

Date of 2nd Reading:

Effective Date: