

ORDINANCE NO. 5393

AN ORDINANCE of the City Council of the City of Bremerton, Washington, amending the Bremerton Municipal Code to add a permitting process and regulations for temporary encampments, and amending Ordinance No 5381 to add to Rate Table C a permit fee for temporary encampment applications.

WHEREAS, there is a history of homelessness in Bremerton and a demonstrated need for additional facilities to address temporary housing; and

WHEREAS, the 2019 Kitsap County Point in Time Count identifies 174 unsheltered individuals in the Kitsap County, and 58% of those individuals are Bremerton residences, for a total of 101 unsheltered people in Bremerton; and

WHEREAS, the City's focus on solutions for people who are homeless should be a roof-overhead and services to connect individuals with a pathway toward long-term housing, however, the current capacity of our housing and homeless services continuum cannot meet the needs of all those who are homeless and, as an alternative, temporary encampments can offer a sense of safety and community while seeking longer term housing options; and

WHEREAS, RCW 35.21.915 expressly authorizes religious organizations to host temporary encampments for homeless persons on property owned or controlled by religious organizations, and likewise authorizes cities to establish permit or other regulatory conditions necessary to protect public health and safety, provided, however, that they do not substantially burden the decisions or actions of religious organizations providing housing or shelter for homeless persons on property owned or controlled by religious organizations; and

WHEREAS, the City and its elected and appointed officials are committed to protecting the health, safety and well-being of its citizens; and

WHEREAS, the City does not seek to limit the Temporary Encampment to particular zoning districts in the city, and therefore allows them to be established in all areas as long as the proposed site is at least one (1) acre in size because this will lessen the health, safety and welfare impacts to existing uses located adjacent to Temporary Encampments; and

WHEREAS, no more than one Temporary Encampment shall be permitted in the City at any one time due to the limitations on City resources and services that are necessary to support temporary homeless encampments; the City Council further finds that these limitations on resources and services would cause public health, safety and welfare impacts if more than one Temporary Encampment was authorized at a time; and

WHEREAS, the City Council finds that a site may only host a Temporary Encampment once every 24 months in order to lessen and disburse throughout the City the

health, safety and welfare impacts to existing uses located adjacent to Temporary Encampment sites; and

WHEREAS, the City Council finds that limiting the permit duration to 183 days for Temporary Encampments does not measurably increase the health, safety and welfare impacts to adjacent neighborhoods and City services; and

WHEREAS, the City desires to enact this ordinance in order to set forth the requirements for the issuance of a temporary encampment use permit to an applicant wishing to host a homeless encampment; and

WHEREAS, the City, by this ordinance, desires to establish a fee of \$175.00 for the review and approval of a permit application for the placement of a temporary encampment. Pursuant to RCW 35.21.915, the City shall not impose permit fees in excess of the actual costs associated with the review and approval of the required permit applications for the placement of temporary encampments. The City Council finds that a fee of \$175.00 is not in excess of actual cost associated with the review and approval of the required permit application for the placement of a temporary encampment; and

WHEREAS, the City of Bremerton has established a procedure for amending the Zoning Code in Title 20.18.020(d) of the Bremerton Municipal Code (“BMC”), which requires amendments to the Zoning Code to be both consistent with the goals and policies of the Comprehensive Plan and to be consistent with other applicable rules and regulations; and

WHEREAS, these amendments are consistent with the City’s Comprehensive Plan, County-wide Planning Policies, the State Growth Management Act, and other applicable regulations and ordinances; and

WHEREAS, on November 5, 2019, the proposed Zoning Code amendments related to temporary encampments were circulated to the State Agencies for the requisite review and comment period; and

WHEREAS, on November 5, 2019, a State Environmental Policy Act (“SEPA”) Determination of Nonsignificance (“DNS”) was issued for the proposed action related to the temporary encampment and no appeals were filed; and

WHEREAS, on November 12, 2019, the Department of Commerce received the proposed amendments related to temporary encampments pursuant to RCW 36.70A.106 for the State’s procedural requirements for agency review; and

WHEREAS, on November 8, 2019, the public was notified by a legal advertisement in the Kitsap Sun of the opportunity to make comment and participate in the public hearing held by the Planning Commission; and

WHEREAS, on November 18, 2019, the Planning Commission conducted a public hearing on the Zoning Code amendments and formulated a recommendation to forward the amendments for City Council consideration; and

WHEREAS, on December 6, 2019, the public was notified by a legal advertisement in the Kitsap Sun of the opportunity to make comment and participate in the public hearing by the City Council; and

WHEREAS, on December 18, 2019, the City Council conducted a public hearing and considered all testimony prior to their decision; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF BREMERTON, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings and Recitals. The findings and recitals set forth above are hereby adopted and incorporated herein by this reference.

SECTION 2. Planning Commission Findings. The finding and conclusions adopted by the Planning Commission attached hereto as **Exhibit A** related to temporary encampments, are adopted and incorporated as set forth herein in full.

SECTION 3. Municipal Code Amended. The Bremerton Municipal Code is hereby amended to add a new Section 20.46.090 entitled “Temporary Encampment Permit” which reads as follows:

20.46.090 TEMPORARY ENCAMPMENT PERMIT.

(a) **Intent.** The City of Bremerton desires to establish reasonable development standards for sponsors of outdoor temporary encampments. These facilities do not represent a permanent solution to homelessness but rather can provide vitally needed shelter and a first step to more permanent forms of housing. This section provides an equitable process, with reasonable conditions and an associated permit, to meet the need for temporary shelter for local homeless persons while ensuring public health, safety and welfare.

(b) **Definitions.**

(1) “Applicant” shall mean a group or individual(s) that host, sponsor and/or manages a temporary encampment.

(2) “Property Owner” shall mean the owner of the property or legal representative of the real property proposed for use as a temporary encampment.

(3) “Shelter(s)” shall mean tents, sheds, huts, cabins, tiny homes, trailers or other enclosures which are not permanently attached to the ground, may be easily erected and dismantled, and are intended for temporary occupancy.

(4) “Temporary encampment(s)” shall mean an area of a parcel(s) that hosts shelters, security, and other facilities, for housing the homeless for humanitarian purposes. Temporary encampment facilities that are established for this use shall be easily erected and dismantled and shall only be temporary.

(5) “Temporary” shall mean, for the purposes of this section, 92 days.

(c) **Siting Criteria.** A temporary encampment may be placed on a property in the City that complies with the following:

(1) **Location.** Temporary encampments can be permitted in all zoning districts.

(2) **Site Size and Encampment Size Requirements.**

(i) **Site Size.** The minimum site size shall be one (1) acre. The one (1) acre site can include one or more contiguous parcels but in no case may the parcels be separated by a right-of-way (streets, alleyways, etc.), critical area, or other means. All property owners shall jointly apply for the temporary encampment permit and shall be equally responsible for compliance with all conditions of the permit.

(ii) **Encampment Size.** The area of the parcel(s) dedicated to the encampment must equal 150 square feet or more for each resident (not including the required setback area). This size requirement is to ensure that there is sufficient land area to support the activities of the temporary encampment without overcrowding of occupants, degradation of vegetation, eroding soils or otherwise overtaxing the land.

(3) **Perimeter Setback.** A temporary encampment shall be set back no less than twenty (20) feet from all exterior boundary lines, with an additional twenty (20) feet setback when adjacent to residential uses (for a total of 40' setback when adjacent to a residential use). This setback is intended to ensure all activities of the temporary encampment are set back from adjacent properties a sufficient distance so as not to impinge upon or otherwise unduly influence activities on said adjacent properties. The required exterior setback may be reduced or waived if the owners of such adjacent property consent in writing to support a reduction or waiver of such setback.

(4) **Screening of Activities.** All activities (shelters, toilets, cooking facilities, etc.) of the temporary encampment shall be obscured from view from adjacent properties and public right-of-way to the maximum extent feasible. This can be accomplished by a minimum six-foot-high sight-obscuring temporary fence, existing dense vegetation, an existing topographic difference, distance from exterior property lines, or other means.

(5) **Critical Areas.** A temporary encampment may not be located within critical areas or their associated buffers. All proposed temporary encampments shall comply with the city's critical areas regulations as set forth in Chapter 20.14 BMC and the Shoreline Master Program.

(6) **Limit of encampments.** No more than one (1) temporary encampment shall be permitted and operating at any one time in the City.

(d) **Preapplication Work.** Prior to application submittal, the applicant and property owners must address community and neighborhood impacts from the proposed temporary encampment by developing the following:

(1) **Impact Mitigation Plan.** The applicant shall identify potential adverse effects of the proposed temporary encampment on neighboring properties and the community and shall develop measures to mitigate such effects. The applicant shall develop a temporary encampment impact mitigation plan. The plan shall contain a narrative and drawing(s) that describe the measures the applicant will use to mitigate the effects of the temporary encampment. At a minimum, the plan shall specifically describe the measures that will be

implemented to satisfy the approval criteria provided in this section. The impact mitigation plan shall be updated to address the comments and suggestions received at the required neighborhood meeting and review as identified in sections (3) and (4) of this subsection (discussions with police, fire, school, childcare, and health district). The implementation and enforcement of the plan shall be a condition of permit approval.

(2) Security Management Plan. The applicant shall develop a plan demonstrating security measures, site specific or otherwise, necessary to ensure the safety of the residents of the temporary encampment and the public. At a minimum, the plan shall specify the following:

- (i) The person or entity responsible for providing security;
- (ii) The type of security to be used, e.g., private security firm, volunteers, or other means; and
- (iii) Recommendations and/or requirements provided by the Police Department.

(3) Discussions with Police, Schools, and Child Care Services. A representative of the applicant or property owner shall meet and confer with the following entities regarding the proposal and any proposed security measures for the temporary encampment: (1) the Bremerton Police Department; (2) the administration of any public or private preschool, elementary, middle, junior high, or high school if within 500 feet of the boundaries of the proposed site; and (3) the operators of any properly licensed child care service(s) within 500 feet of the boundaries of the proposed site.

(4) Discussions with Kitsap Public Health District. A representative of the applicant or property owner shall meet and confer with the Kitsap Public Health District regarding the proposal and the proposed plan for providing adequate drinking water, solid waste management, and the waste management (trash removal) plan for the temporary encampment.

(5) Parking Plan. The applicant shall develop a parking plan. The parking plan shall address the following:

- (i) Adequate parking for the temporary encampment shall be provided so as not to reduce parking utilized by existing site uses;
- (ii) The temporary encampment shall not displace the site's parking lot in such a way that the site no longer meets the minimum or required parking of the principal use as required by code or previous approvals;
- (iii) An alternative parking plan may be approved by the Director if the parking plan can demonstrate how the existing use on the site and the encampment can provide off-site parking sufficient to have no off-site impact to the surrounding neighborhoods. This alternative parking plan will be not valid after the expiration of the temporary encampment;
- (iv) Parking vehicles shall only be allowed in existing approved parking areas and shall not be located in unapproved areas such as the grass or field; and
- (v) A Temporary Encampment Permit cannot permit new site development such as paving, gravel laydown, and structure installation. This work requires a separate process through the approval of a Site Development Permit as outlined in BMC 20.58.090.

(e) **Neighborhood Meeting.** The applicant shall conduct a neighborhood meeting to inform nearby residents and the public about the proposed temporary encampment prior to submittal of an application. The following process shall be used:

(1) **Notification.** The applicant shall provide notice of the neighborhood meeting by mail, first class and postage prepaid, to all owners of property within 500 feet of the lot(s) containing the proposed temporary encampment, provided such area shall be expanded as necessary to send mailed notices to at least 20 different property owners. The notice of the neighborhood meeting shall be mailed at least 15 days prior to the neighborhood meeting.

(2) **Neighborhood Meeting.** At the neighborhood meeting, a representative of the applicant or property owner shall present in writing and verbally the proposed temporary encampment location, timing, site plan, code of conduct, impact mitigation plan, accommodations concerns, and a security management plan. The presentation shall also include copies of all previously submitted comments received on the proposed temporary encampment, including comments from the Bremerton Police Department, school(s), and child care services. Copies of the agenda and the other specified comments and materials shall be provided by the applicant at the meeting. The meeting shall be conducted on the proposed Temporary encampment site whenever feasible; this meeting shall be held in a location that is ADA (Americans with Disability) accessible.

(f) **Performance Criteria.** Temporary encampments shall be operated in such a manner as to ensure the health and safety of occupants of the encampment and surrounding properties. Accordingly, all temporary encampments shall comply with the list below. Demonstration of compliance with this section is a requirement of the temporary encampment permit. Any proposed mitigation or actions from this section shall be identified in the Impact Mitigation Plan.

(1) **Health Regulations.** All applicable city, county and state regulations pertaining to public health shall be met.

(2) **Fire Safety.** Inspections of the site by the city for fire safety purposes may be conducted at any time and without prior notice. Adequate access, as determined by the Fire Marshal, shall be maintained within and around the temporary encampment at all times to ensure that emergency vehicles can ingress/egress the site.

(3) **Building Code Inspections.** Inspections of the temporary encampment by the city to ensure the public health and safety may be conducted at any time and without prior notice.

(4) **Drinking Water and Solid Waste.** An adequate supply of potable water and adequate toilet facilities shall be available on-site at all times. All city, county and state regulations pertaining to drinking water connections and solid waste disposal shall be met.

(5) **Trash.** Adequate facilities for dealing with trash shall be provided on-site. A regular trash patrol or other method of regular maintenance in the immediate vicinity of the site shall be provided.

(6) **Noise.** Any temporary encampment shall comply with city noise regulations as set forth in Chapter 6.32 BMC.

(7) **Light and Glare.** Any temporary encampment shall comply with city light and glare regulations as set forth in Chapter 20.44.110 BMC.

(8) Security. Any temporary encampment shall provide all required legal access to public areas of the site by the city of Bremerton Police Department and any other relevant law enforcement agency at all times.

(9) Codes of Conduct. The applicant shall enforce a written code of conduct which mitigates impacts to neighbors and the community. Said code shall be incorporated into the conditions of approval. The code shall contain the following as a minimum:

- (i) Prohibit possession or use of firearms and/or illegal drugs;
- (ii) No violence;
- (iii) No open flames;
- (iv) No loitering in the surrounding neighborhood; and
- (v) Quiet hours (at a minimum between the hours of 10:00 p.m. and

7:00 a.m.).

(g) **Process and Permit.** Notwithstanding any other provision in the Bremerton Municipal Code, the following procedures shall apply in accepting, noticing, reviewing, and otherwise processing temporary encampment permit applications. A City issued temporary encampment permit is required prior to the commencement of such a use.

(1) A temporary encampment permit is a Type I action and shall be processed accordingly, as set forth in Chapter 20.02 BMC, Project Permits. The prospective temporary encampment applicant and property owner(s) shall jointly apply for the temporary encampment permit and shall be equally responsible for compliance with all conditions of the permit. A complete application for a temporary encampment permit shall be submitted a minimum of thirty (30) days prior to the anticipated start of the encampment.

(2) The following documentation is required for a complete application:

- (i) Application;
- (ii) The date that the temporary encampments will commence;
- (iii) The maximum duration requested of said temporary encampment;
- (iv) The number of residents to be accommodated on the site;
- (v) The host location;
- (vi) The names of the managing agency and host, with contact information;
- (vii) Impact Mitigation Plan
- (viii) Security Management Plan
- (ix) Code of Conduct;
- (x) Documentation of Actions taken prior to application submittal.

This document shall include a summary of the Neighborhood Meeting, including who was notified of the meeting (mailing list and map of mailed property owners), who attended the meeting, summary of the items discussed at the neighborhood meeting, and summary of discussion and any request for mitigations of the temporary encampment from the Health District, Police, Fire, School District(s) and Childcare services;

(xi) Vicinity Map including buildings and uses on properties surrounding the proposed temporary encampment, and the distance the proposed accommodations would be set back from the property lines; and

(xii) Site plan showing at least the following:

- (A) Existing buildings and parking and vehicle maneuvering area.
- (B) Location of where encampment will be located including overall dimensions;
- (C) Location of on-site parking for primary use of the site and number of vehicles associated with the encampment (parking plan); and
- (D) Access routes for emergency vehicles
- (xiii) Encampment layout showing at least the following:
 - (A) Layout of all encampment facilities, including, but not limited to, food and security facilities, arrangement of shelters, etc.;
 - (B) Method and location of potable water;
 - (C) Method and location of waste receptacles;
 - (D) Method and location of required screening; and
 - (E) Location of required sanitary stations including toilets and hand washing facility; and

(xiv) Application Fee.

(4) Decisions may be appealed. Appeals of a Type I decision shall be heard and decided by the hearing examiner in accordance with the procedures set forth in BMC 20.02.140.

(5) Emergencies. The Director may waive these requirements of this section when a natural or manmade disaster necessitates the immediate establishment of temporary encampments.

(h) **Duration and Site Restoration.**

(1) Duration. A proposed temporary encampment may be allowed at one property for up to 183 days, either consecutively or cumulatively, during any 24-month period, except that where the ninetieth day falls on Friday through Sunday, an additional two days shall be allowed to dismantle and remove the accommodation over the immediately following weekend. The applicant and/or property owner shall store, out-of-sight from adjacent properties, the residents' personal belongings that are left onsite after the dismantling of the site.

(2) Restoration of Site. Upon cessation of the temporary encampment, the site shall be restored, as near as possible, to its original condition. The applicant shall re-plant areas in which vegetation had been removed or destroyed.

(i) **Revocation and Indemnification.**

(1) Failure to Comply. If a temporary encampment permit has been issued, and the Director determines that the applicant has violated any condition of that permit, the Director shall issue a notice of violation and require compliance in accordance with the procedures set forth in Chapter 1.04 BMC, Code Enforcement. The City may revoke a temporary encampment permit for any violation of this section or the temporary encampment permit where such a violation is:

- (i) Not cured following notice from the City and an opportunity to cure such violations.
- (ii) Intentionally or knowingly committed by the applicant or property owner; or

(iii) So severe as to substantially threaten public health and safety.

(2) Upon revocation of the temporary encampment permit, all residents of the encampment must vacate the premises within seventy-two hours of revocation. The applicant or property owner shall be required to remove all physical evidence of the use and to restore or replant any required vegetation within one week of revocation. The applicant and/or property owner shall store, out-of-sight from adjacent properties, the residents' personal belongings that are left onsite after the 72 hours.

(3) Indemnification. The applicant, except for religious facilities per RCW 35.21.915, shall defend, indemnify, and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits of any nature, including attorney fees, due to the acts or omissions of the applicant in connection with the operation of the temporary encampment.

(4) Liability Insurance. Except for religious facilities, the applicant shall procure and maintain in full force, through the duration of the temporary encampment, comprehensive general liability insurance with a minimum coverage of \$1,000,000 per occurrence/aggregate for personal injury and property damage.

SECTION 4. Ordinance Amended. Ordinance No. 5381 establishing the City of Bremerton's 2020 Rates and Fees is hereby amended by amending Rate Table C entitled "Department of Community Development" to add "Temporary Encampment Permit" with an associated fee of "\$175.00" to subsection (2)(e) entitled "Zoning Ordinance".

SECTION 5. Corrections. The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener, clerical, typographical, and spelling errors, references, ordinance numbering, section/subsection numbers and any references thereto.

SECTION 6. Severability. If any one or more sections, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 7. Effective Date. This ordinance shall take effect and be in force ten (10) days from and after its passage, approval and publication as provided by law.

PASSED by the City Council the 18th day of December, 2019.


ERIC YOUNGER, Council President

Approved this 23rd day of December, 2019.



GREG WHEELER, Mayor

ATTEST:

APPROVED AS TO FORM:



ANGELA HOOVER, City Clerk



ROGER A. LUBOVICH, City Attorney

PUBLISHED the 25th day of December, 2019.
EFFECTIVE the 4th day of January, 2019. 9020
ORDINANCE NO. 5393

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FINDINGS AND CONCLUSIONS OF THE CITY OF BREMERTON PLANNING COMMISSION

Summary:

Proposed amendments to Bremerton Municipal Code (BMC) Title 20 Land Use Chapter to add a new section to BMC 20.46 Special Development Standards to establish a permitting process and regulations for siting a temporary encampment.

I. FINDINGS OF FACT

1. Project Description:

The proposed amendment package includes revisions to Title 20, specifically amending BMC 20.46 Special Development Standards to create a new section: BMC 20.46.090 Temporary Encampment Permit. This new section will outline a process and regulations for siting a Temporary Encampment. The Commission finds the following:

1. It is vitally important that the City establish regulations to protect the health of the individuals in the encampments and the health, safety, and security of our neighborhoods.
2. It is important for there to be options to site temporary encampments in different areas of the City and not concentrate them in one place. Therefore, the proposed code does not seek to limit the temporary encampment to particular zoning districts in the city, and allows them to be established in all areas as long as the proposed site is at least one (1) acre in size. This will lessen the health, safety and welfare impacts to existing uses located adjacent to Temporary Encampments.
3. No more than one Temporary Encampment shall be permitted in the City at any one time due to the limitations on City resources and services that are necessary to support temporary homeless encampments. Without these limitations, multiple temporary encampments would have impacts on resources and services and would cause public health, safety and welfare impacts if more than one was authorized at a time.
4. A site may only host a Temporary Encampment once every twenty-four (24) months in order to lessen and disburse throughout the City the impacts that this use may have on adjacent properties.
5. Limiting the permit duration to ninety-two (92) days for Temporary Encampments does not measurably increase the health, safety and welfare impacts to adjacent neighborhoods and City services

2. Procedural History:

- 2.1 SEPA Threshold Determination DNS: November 5, 2019
- 2.2 Notice of Public Hearing: November 8, 2019
- 2.3 Department of Commerce Noticing: November 12, 2019
- 2.4 Planning Commission Public Hearing: November 18, 2019

3. Public and Agency Comment:

- 3.1 Brooks-Young, requesting a longer duration for temporary encampments.
- 3.2 Lane, opposing proposal and should prohibit homeless camping.
- 3.3 Wall, opposing proposal and should not up-zone areas for homelessness.
- 3.4 Runyon
- 3.5 Simpson
- 3.6 _____
- 3.7 _____
- 3.8 _____

4. SEPA Determination:

A Determination of Non-Significance was issued on November 5, 2019; to date no comments or appeals have been filed. Please note that the comment period for the environmental review will be completed after the Planning Commission's Public Hearing and thus any comments or information received after the Planning Commission's hearing will be presented to City Council for their decision. The environmental review and appeal will be completed prior to the City Council public hearing.

5. Consistency:

Text amendments to Title 20 shall meet the decision criteria outlined in BMC 20.18.020(d). The Planning Commission may recommend a decision, and the City Council may adopt or adopt with modifications, amendments to Title 20 if the following criteria are met.

(1) The amendments are consistent with the goals and policies of the comprehensive plan;

Analysis: The proposed amendments continue to uphold the objectives and goals of the Comprehensive Plan, and implement the following goals and policies:

Land Use Goal LU(1): Plan for Bremerton's population and employment growth.

H2(E): Support efforts to provide a variety of housing options:

- *Emergency group housing, homeless shelters and short-term housing to meet the needs of those in the lower income categories.*

(2) It does not conflict with other City, state and federal codes, regulations and ordinances.

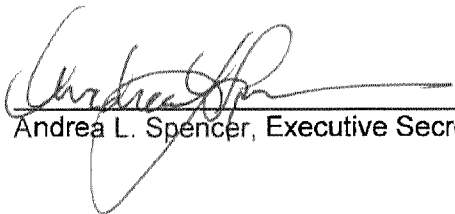
Analysis: The proposed amendments do not conflict with any other regulations. This proposal utilizes existing State Code (RCW 35.21.915) that allows temporary encampments and creates a process and regulations appropriate for Bremerton that protects the encampments resident's and the public's health, safety and general welfare.

II. CONCLUSIONS & RECOMMENDATION

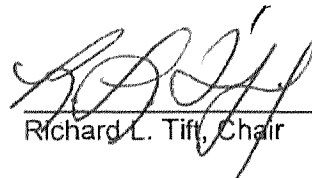
Based on the findings above, the Planning Commission concludes that the proposed amendments to the Bremerton Municipal Code Title 20 Land Use Chapter, meets the requirements in BMC 20.18.020(d) text amendments, and therefore recommends to the City Council, the adoption of the amendment to Title 20.

Respectfully submitted by:

Approved by:



Andrea L. Spencer, Executive Secretary



Richard L. Tift, Chair