

ORDINANCE 1744

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, RELATING TO THE CITY'S CRIMINAL CODE AND SPECIFICALLY: AMENDING NORTH BEND MUNICIPAL CODE 9.45.020 RELATING TO POSSESSION OF DRUG PARAPHERNALIA; AMENDING NBMC 9.05.010 TO INCLUDE THE ADOPTION BY REFERENCE OF ALL MISDEMEANOR AND GROSS MISDEMEANOR RELATED SECTIONS OF THE REVISED CODE OF WASHINGTON AND KING COUNTY CODE NOT OTHERWISE SPECIFICALLY ADOPTED BY REFERENCE IN THE CITY'S CRIMINAL CODE, NBMC TITLE 9; AMENDING NBMC 9.120.010 TO INCLUDE THE ADOPTION BY REFERENCE OF RCW CHAPTER 10.14, RELATING TO CRIMINAL PROCEDURES AND PENALTIES FOR HARASSMENT, IN ITS ENTIRETY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of North Bend adopted North Bend Municipal Code ("NBMC") 9.45.020 making it a misdemeanor to possess drug paraphernalia in 1996; and

WHEREAS, the Supreme Court of the State of Washington issued its Opinion in the matter of State v. Blake, No. 96873-0, on February 25, 2021; and

WHEREAS, based on the Blake court's holding, the City Council desires to amend NBMC 9.45.020 to include the additional element that a person must "knowingly" possess drug paraphernalia to be guilty of a misdemeanor; and

WHEREAS, the City Council desires to amend NBMC 9.05.010 to adopt by reference all misdemeanor and gross misdemeanor-related sections adopted in the Revised Code of Washington ("RCW") and King County Code ("KCC") not already specifically adopted by reference in the NBMC to allow for the enforcement and prosecution of crimes to the fullest extent of the law; and

WHEREAS, the City Council further desires to amend NBMC 9.120.010 to include the adoption by reference of RCW Chapter 10.14, relating to criminal procedures and penalties for harassment, in its entirety;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. NBMC 9.45.020, Amended: North Bend Municipal Code Section 9.45.020 (Controlled substances – Drug paraphernalia – Possession prohibited) is hereby amended to read as follows:

9.45.020 Controlled substances – Drug paraphernalia – Possession prohibited.

Any person who knowingly possesses any drug paraphernalia as defined in NBMC 9.45.030 is guilty of a misdemeanor.

Section 2. NBMC 9.05.010, Amended: North Bend Municipal Code Section 9.05.010 (Preliminary statement) is hereby amended to read as follows:

9.05.010 Preliminary statement.

A. This chapter shall be known as, and may be cited as, the North Bend criminal code.

B. The provisions of this code shall apply to any offense committed on or after the effective date of the ordinance codified in this title.

C. The provisions of this code do not apply to or govern the construction of and punishment for any offense committed prior to the effective date of the ordinance codified in this title, or to the construction and application of any defense to a prosecution for such an offense. Such an offense must be construed and punished according to the provisions of law existing in the city at the time of the commission thereof in the same manner as if this code had not been enacted.

D. The sections of the Revised Code of Washington (RCW) and the King County Code (KCC), now in effect or as subsequently amended, specifically enumerated in this title, are adopted by reference in this code. Notwithstanding the Revised Code of Washington (RCW) and the King County Code (KCC) sections that are specifically adopted by reference in this code, all other RCW and KCC sections that constitute misdemeanors or gross misdemeanors and all the RCW sections necessary for the investigation, arrest, prosecution, sentencing, confinement and enforcement of misdemeanors or gross misdemeanors are hereby adopted by

reference as currently enacted or as they may hereafter be amended or recodified and shall be given the same force and effect as if fully set forth herein. To the extent that any conflict exists among the terms of applicable RCW, KCC, or NBMC sections, the RCW section shall control. To the extent that any conflict exists between the terms of applicable KCC and NBMC sections, the NBMC section shall control.

E. Section captions are for organizational purposes only and shall not be construed as part of this code.

Section 3. NBMC 9.120.010, Amended: North Bend Municipal Code Section 9.120.010 (Harassment) is hereby amended to read as follows:

9.120.010 Harassment.

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW

- 9A.46.010 Legislative finding.
- 9A.46.020 Definition – Penalties.
- 9A.46.030 Place where committed.
- 9A.46.040 Court-ordered requirements upon person charged with crime – Violation.
- 9A.46.050 Arraignment – No-contact order.
- 9A.46.060 Crimes included in harassment.
- 9A.46.070 Enforcement of orders restricting contact.
- 9A.46.080 Order restricting contact – Violation.
- 9A.46.090 Nonliability of peace officer.
- 9A.46.100 “Convicted,” time when.
- 9A.46.110 Stalking.
- 9.61.230 Telephone calls to harass, intimidate, torment, embarrass.
- 9.61.240 Telephone calls to harass, intimidate, torment or embarrass – Permitting telephone to be used.
- 9.61.250 Telephone calls to harass, intimidate, torment or embarrass – Offense, where deemed committed.
- Ch. 10.14 Harassment. Chapter 10.14 RCW is adopted by reference in its entirety.

Section 4. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 5. Effective Date: This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 20TH DAY OF APRIL, 2021.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Rob McFarland, Mayor

Michael R. Kenyon, City Attorney

Published: April 30, 2021
Effective: May 5, 2021

ATTEST/AUTHENTICATED:

Susie Oppedal, City Clerk