

# ORDINANCE 1273

**AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, REGARDING VACANT STRUCTURES; AMENDING NORTH BEND MUNICIPAL CODE SECTION 8.08.040 RELATED TO NUISANCE ABATEMENT; ADOPTING A NEW NORTH BEND MUNICIPAL CODE CHAPTER 8.38 RELATING TO THE REGULATION OF VACANT STRUCTURES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE**

**WHEREAS**, the City previously adopted the 2003 edition of the International Property Maintenance Code that is incorporated in Chapter 15.26 of the North Bend Municipal; and

**WHEREAS**, the International Property Maintenance Code includes certain regulatory provisions related to vacant structures and land; and

**WHEREAS**, in order to better protect the health, safety, and welfare of its citizens and to complement the provisions of the International Property Maintenance Code, the City Council desires to establish additional, more comprehensive regulations applicable to vacant structures and land; and

**WHEREAS**, the City Council hereby expresses its statement of policy that the best interests of the City of North Bend are served when property owners are encouraged to retain their properties in an occupied or otherwise well-maintained condition; and

**WHEREAS**, On April 26, 2007 the Planning Commission moved to recommend to the City Council approval of the proposed amendment to North Bend Municipal Code, Chapter 8.08 Nuisances and a new North Bend Municipal Code Chapter 8.38 relating to the regulation of vacant structures; and

**WHEREAS**, On May 8, 2007 the Community and Economic Development Council Committee reviewed the Planning Commission's Findings, Facts and Recommendation and recommended additional language;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1. NBMC 8.08.040, Amended.** North Bend Municipal Code Section 8.08.040 (Nuisance Defined) is hereby amended to read as follows:

8.08.040 Nuisance defined.

A. "Nuisance" (also referred to herein as "violation" or "nuisance violation") means:

1. A violation of any city of North Bend ordinance, including but not limited to zoning and other land use and development regulations;

2. Doing an act; omitting to perform any act or duty; or permitting or allowing any act or omission which annoys, injures, or endangers the comfort, repose, health, or safety of others; is unreasonably offensive to the senses; or which obstructs or interferes with the free use of property so as to interfere with or disrupt the free use of that property by any lawful owner or occupant; or

3. The existence, without limitation, of any of the following conditions:

a. Animal Manure. Animal manure in any quantity which is not securely protected from flies and the elements, unless kept pursuant to an agricultural use and applicable industry standards or specifically allowed by zone or conditional use permit.

b. Dangerous Premises. The premises of a person, partnership, corporation or other entity which is reasonably apprehended to be a source of danger for children, and no reasonable steps have been taken to prevent injury to children, who may, by reason of something there which may be expected to attract them, come there to play. This includes unused or abandoned refrigerators, freezers, or other large appliances, or equipment or any parts thereof; any structurally unsound or unsafe fence or edifice; any unsecured or abandoned excavation, pit, well, cistern, storage tank, or shaft; and any lumber, trash, debris, or vegetation which may prove a hazard for minors;

c. Building Materials. Lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, concrete block, roofing materials, cans of paint, and similar materials not actively used in a permitted project;

d. Dangerous or Unlawful Vacant Structures. Any dangerous building, ~~fence~~, billboard, or other structure, that is determined by the Building Official to be dilapidated, left unfinished, decaying, unkempt, falling, severely damaged, abandoned, partially destroyed, or otherwise unfit for human habitation, use, or occupancy. ~~building or structure; any building or structure commenced and left unfinished, or any decaying, unkempt, falling, or damaged dwelling, fence, or other structure~~

e. Dumping in Waterways. Dumping, depositing, placing, or leaving of any garbage, ashes, debris, gravel, earth, rock, stone, or other material upon the banks, channels, beds, or bars of any known waterway, or the felling of any tree or trees, so that the same shall in whole or in part project within the high water bank of any waterway, or the casting, placing, depositing, or leaving of any logs, roots, snags, stumps, or brush upon the banks or in the bed or channel of any waterway

unless permitted; except as may be required pursuant to state law or administrative code;

f. Excessive Light. The operation of a searchlight for advertising purposes between 11:00 p.m. and sunrise; the illumination after 11:00 p.m. of an outdoor public recreation facility unless a specific recreational activity is already in progress; provided, that this prohibition shall not apply to any emergency lighting as may be required by any public agency engaged in the performance of their duties;

g. Grease and Animal Fat. Grease and animal fat not stored in a sealed container;

h. Illegal Dumping. Dumping of any type by any person on public or private property not registered as a legal dump site;

i. Junk Vehicles. A “junk vehicle” means a vehicle meeting at least three of the following conditions: A. The vehicle is more than three years old; B. It is extensively damaged, including (by way of illustration only and not limitation) a broken window or windshield, missing wheels or tires, missing a motor or transmission, or extensive body damage; C. It is apparently inoperable; D. It has a fair market value equal only to its value as scrap; provided, nothing herein shall prevent the keeping or storage of any vehicle on private property which is screened from view off a public right-of-way or other property and does not constitute an attractive nuisance;

j. Obstruction of the Public Right-of-Way. Use of property abutting a public street or sidewalk or use of a public street or sidewalk which causes any obstruction to traffic or to open access to the streets or sidewalks; provided, that this subsection shall not apply to events, parades, or the use of the streets or public rights-of-way when authorized by the city. This section includes the existence of drainage onto or over any sidewalk, street, or public right-of-way, and the existence of any debris or plant growth on sidewalks adjacent to any property;

k. Potential Vermin Habitat or Fire Hazard. Any accumulation of material on a property including, but not limited to, animal matter, ashes, bottles, boxes, broken stone, building materials which are not properly stored or neatly piled, cans, cement, crates, empty barrels, dead animals or animal waste, glass, litter, mattresses or bedding, old appliances or equipment or any part thereof, furniture, iron or other scrap metal, packing cases, packing material, plaster, plastic, rags, wire, yard waste or debris, or other objects which endanger property or public safety or constitute a fire hazard or vermin habitat; provided, that nothing herein shall prevent the temporary retention of waste in approved, covered receptacles;

l. Refrigeration Equipment, Abandoned or Discarded. Discarding, abandoning, or leaving in any place accessible to children any refrigerator, icebox, or deep-freeze locker having a capacity of one cubic feet or more, which is no longer

in use, and which has not had the door removed or a portion of the latch mechanism removed to prevent latching or locking of the door.

(i) Permitting Unused Equipment to Remain on Premises. Any owner, lessee, or manager knowingly permitting such an unused refrigerator, ice box, or deep-freeze locker to remain on the premises under his control without having the door removed or a portion of the latch mechanism removed to prevent latching or locking of the door;

(ii) Keeping or Storing Equipment for Sale. Keeping or storing refrigerators, iceboxes, or deep-freeze lockers for the purpose of selling or offering them for sale, except when reasonable precautions to effectively secure the door of any refrigerator, icebox, or deep-freeze locker held for purpose of sale so as to prevent entrance of children small enough to fit into such articles;

m. Road Debris. Dirt, mud, rocks, and/or debris of any kind dropped, deposited, or allowed to remain in any manner or condition on the surface of any street within the city;

n. Rodent and Insect Infestations. Any infestation of rodents or insects, including, but not limited to, rat or mouse dens, ant hills, or termites;

o. Trash Covered Premises. Any premises containing trash, abandoned materials, dirt, filth, or other matter which is offensive to a reasonable person, except that kept in garbage cans or containers maintained for regular collection;

p. Vegetation. Poison oak, poison ivy, evergreen and himalayan blackberries, deadly nightshade, or any noxious or toxic weed, as defined by the state or King County extension service, or uncultivated plant (whether growing or otherwise), weeds, tall grass, uncultivated shrubs or growth higher than twelve (12) inches, grass clippings, cut brush or cut weeds, except a compost pile so covered or concealed as not to affect the health, safety, or depreciation of adjoining property; provided, however that this section does not apply to vegetation (specifically excluding noxious weeds) inside a sensitive area, as so designated by the city and weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs; provided, however, this term shall not include cultivated flowers and gardens.

q. Vibration. Any vibration emanating beyond the property boundaries which is discernible to a reasonable person that is not associated with an approved building permit.

**Section 2. Chapter 8.38 NBMC, Adopted.** A new Chapter 8.38 of the North Bend Municipal Code (Vacant Structures) is hereby adopted to read as follows:

CHAPTER 8.38  
VACANT STRUCTURES

Sections:

- 8.38.010 Purpose.
- 8.38.020 Definition.
- 8.38.030 Appearance.
- 8.38.040 Security.
- 8.38.050 Prohibitions.
- 8.38.060 Maintenance.
- 8.38.070 Termination of Utilities.
- 8.38.080 Enforcement.
- 8.38.090 Exceptions.

8.38.010 Purpose.

In order to better provide for the health, safety, and welfare of its citizenry, the City desires to establish regulations applicable to Vacant Structures in addition to the provisions set forth in the previously adopted 2003 edition of the International Property Maintenance Code.

8.38.020 Definition.

“Vacant Structure” shall mean any building or other structure that is or remains unoccupied or unutilized for 90 or more consecutive days.

8.38.030 Appearance.

Vacant Structures shall be maintained in a clean, safe, secure, and sanitary condition, suitable for human occupancy and use. Any Vacant Structures not in compliance with this Chapter shall constitute a public nuisance.

8.38.040 Security.

Vacant Structures shall, at all times, be secured against unlawful or otherwise unauthorized outside entry. Vacant Structures shall contain at least one operable exterior door. Exterior walls and roofs shall remain fully intact. Untreated plywood or similar structural panels may not be used to secure windows, doors, and other openings. The Building Official may permit the use of medium-density overlay or other approved materials, painted to match the building exterior.

8.38.050 Prohibitions.

A. Flammable Liquids. No Vacant Structure or portion thereof shall be used to store flammable liquids, or other materials, which constitute an unreasonable safety or fire hazard as determined by the Building Official or Fire Marshal.

B. Combustible Materials. All debris, combustible materials, and garbage shall be removed from Vacant Structures, any accessory structures, and adjoining yard areas.

#### 8.38.060 Maintenance.

The following maintenance provisions apply to Vacant Structures:

A. Fire Inspections. The City may periodically inspect Vacant Structures to ensure compliance with all applicable fire and other code provisions.

B. Plumbing. Plumbing fixtures connected to an approved water system or an approved sewage or on-site septic system shall be maintained in sound condition and good repair. If not so maintained, such fixtures shall be removed and the service terminated to the Vacant Structure in the manner prescribed by applicable codes.

C. Electrical and Gas. Electrical and gas service lines, wiring, outlets or other fixtures not installed or maintained in accordance with applicable codes shall be removed or repaired in accordance with applicable code. If not so removed or repaired, the electrical or gas services shall be terminated to the Vacant Structure.

D. Heating. Heating facilities or heating equipment in Vacant Structures shall be removed, rendered inoperable, or maintained in accordance with applicable codes.

E. All premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve (12) inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs; provided, however this term shall not include cultivated flowers and gardens.

#### 8.38.070 Termination of Utilities.

The Building Official may, by written notice to the Vacant Structure owner and to the appropriate water, electric, gas, or other utility service provider, require the termination or disconnection of any utility service failing to comply with the provisions of this chapter or otherwise failing to comply with applicable code.

#### 8.38.080 Enforcement.

Violations of this Chapter may be remedied in accordance with Chapter 20.10 NBMC.

#### 8.38.090 Exceptions.

This chapter shall not apply to any Vacant Structure undergoing construction, renovation, or rehabilitation, in compliance with all applicable ordinances, codes, and regulations, and for which construction, renovation, or rehabilitation is proceeding regularly to completion. A Vacant Structure is not proceeding regularly to completion under this chapter when no construction, renovation, or rehabilitation activities have occurred for sixty or more consecutive days.

**Section 2. 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 3. 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 15<sup>TH</sup> DAY OF MAY, 2007.**

**CITY OF NORTH BEND:**

**APPROVED AS TO FORM:**

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Kenneth G. Hearing, Mayor

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Michael R. Kenyon, City Attorney

**ATTEST/AUTHENTICATED:**

Published: May 23, 2007

Effective: May 28, 2007

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**Cheryl A Proffitt, City Clerk**