

1 **CITY OF FIRCREST**
2 **ORDINANCE NO. 1605**

3 **AN ORDINANCE OF THE CITY OF FIRCREST, WASHINGTON,**
4 **WASHINGTON, AMENDING ORDINANCE 1512 SECTION 4 AND**
5 **FMC 22.58.013 HOME OCCUPATIONS.**

6 **WHEREAS**, the City has identified code amendments based on concerns discussed at
7 the April 17, 2017 City Council study session; and

8 **WHEREAS**, the Planning Commission held study sessions on June 6, 2017 and July
9 10, 2017; and

10 **WHEREAS**, the City submitted a Notice of Intent to Adopt to the Washington State
11 Department of Commerce on July 18, 2017, which was issued to state agencies for a 60-
12 day comment period as required pursuant to RCW 36A.70 RCW, and no adverse
13 comments were received; and

14 **WHEREAS**, the City issued a Determination of Nonsignificance on July 20, 2017 with
15 a 14-day comment period ending August 3, 2017, and no adverse comments were
16 received; and

17 **WHEREAS**, the Planning Commission conducted a public hearing on August 15, 2017
18 to accept public testimony and comment on the proposed amendments; and

19 **WHEREAS**, the Planning Commission adopted the following findings in support of
20 approval of the proposed amendments, in consideration of the criteria listed in Section
21 22.78.004 FMC, prior to final action:

22 (a) The proposed amendment is consistent with the goals, objectives and policies of
23 the comprehensive plan, in particular:

24 Policy H1.1 Effectively implement zoning regulations, including design
25 standards and guidelines, to help support the stability of established residential
26 neighborhood.

27 Policy LU5.6 The character of existing single-family residential neighborhoods
28 should be preserved and enhanced.

29 Policy LU5.9 To expand local economic opportunities for Fircrest's residents,
30 home occupations that are compatible with the surrounding residential area shall
31 be encouraged.

32 **WHEREAS**, the City Council conducted a public hearings on October 10 and October
24, 2017 to accept public testimony and comment on the proposed amendments. Now,
Therefore,

**THE CITY COUNCIL OF THE CITY OF FIRCREST DO ORDAIN AS
FOLLOWS:**

Section 1. Ordinance 1512 §4 and FMC 22.58.013 are hereby amended to read as
follows:

1 **22.58.013 Home occupations.**

2 (a) Purpose and Intent. It is the purpose and intent of this section to:

3 (1) Protect residential areas from potential adverse impact of activities defined as home occupations;

4 (2) Allow residents of the community a broad choice in the use of their homes as a place of livelihood and for the production or supplementing of personal and family income; and

5 (3) Establish criteria and standards for the use of residential structures for home occupations.

6 (b) Permit Requirement. A home occupation may be carried on upon the issuance of a business license pursuant to Chapter 5.04 FMC and the issuance of a home occupation permit by the director.

7 (c) Submittal Requirements. Application for a home occupation permit shall be made upon forms provided by the director, accompanied by a filing fee in accordance with the planning services fee schedule established by council resolution. The application shall be signed by the owner of the property on which the home occupation activity will occur. The application shall also be signed by the business operator if that person is different from the property owner. The director may require the submittal of a site plan of the premises, floor plans of the residence or accessory building in which the use or activity will take place, and other documentation deemed necessary to process the application. The plans shall clearly indicate the area where the use or activity will take place and any structural alterations intended to accommodate the use or activity.

8 (d) Categories of Home Occupation.

9 (1) Type I home occupations are those activities, categorized below, which comply with all performance standards set forth in subsection (f) of this section.

10 (A) Type I-A includes home offices, internet businesses, and similar activities that have no traffic or product pickup or deliveries.

11 (B) Type I-B includes instruction, counseling, sales, services, and other activities that have customer traffic and/or product pickup or deliveries.

12 (2) Type II home occupations are those activities which do not comply with one or more of the performance standards governing Type I home occupations as set forth in subsection (f) of this section but which do comply with the performance standards governing Type II home occupations as set forth in subsection (g) of this section.

13 (e) Processing Requirements.

14 (1) The director shall approve a proposed home occupation, which complies with all Type I standards set forth in subsection (f) of this section. The director may impose conditions of approval to ensure that the business activity is conducted in a manner consistent with the standards and purpose and intent of this section.

15 (2) A proposed home occupation which has been determined by the director to not comply with one or more Type I standards set forth in subsection (f) of this section may be permitted subject to conditional use permit approval by the planning commission in accordance with Chapter 22.68 FMC, if the home occupation complies with the Type II standards set forth in subsection (g) of this section.

16 (f) Type I Home Occupation Standards.

17 (1) Only residents of the premises on which the home occupation is located shall carry on the home occupation.

18 (2) The home occupation shall be carried on entirely within a residence and/or detached accessory building. The home occupation shall occupy not more than 25 percent of the total floor area of the habitable portion of a residence. In no event shall such occupancy exceed 400 square feet.

1 (3) Any extension of the home occupation to the outdoors, including, but not limited
2 to, paving of yards for parking, outdoor storage or activity, and indoor storage or activity
3 visible from outdoors (e.g., in an open garage) is prohibited, except that vegetables,
4 fruits, flowers and other agricultural products may be grown on the premises if
5 production does not exceed what would normally be consumed on the premises.

6 (4) The home occupation shall not result in the elimination of required on-site parking.

7 (5) The home occupation shall be conducted in such a manner as to give no outward
8 appearance nor manifest any characteristics of a business in terms of deliveries, parking,
9 customer trips and other activities, that would infringe upon the right of the neighboring
10 residents to enjoy a peaceful occupancy of their homes.

11 (6) The home occupation shall not result in structural alteration to the interior or
12 exterior of the structure that changes its residential character.

13 (7) No equipment shall be used and no activities shall be conducted which would result
14 in noise, vibration, smoke, dust, odors, heat, glare or other conditions exceeding in
15 duration or intensity than those normally produced by residential use. Normal residential
16 use shall be construed as including the above impacts only on an occasional weekend or
17 evening basis (e.g., in connection with a hobby or home/yard maintenance), and not on
18 a daily basis.

19 (8) The home occupation shall not include: (A) automobile, truck or heavy equipment
20 repair; (B) body work or painting; (C) outdoor storage of used parts of vehicles and used
21 machinery in an inoperable condition; or (D) outside storage of building materials such
22 as lumber, plasterboard, pipe, paint or other construction materials.

23 (9) The home occupation shall not include parking or storage of heavy equipment,
24 including trucks of over one ton load capacity or commercial vehicles in excess of
25 10,000 gross vehicle weight (GVW), within a public right-of-way or on private property
26 outside of a fully enclosed building.

27 (10) Persons in building trades and similar fields using their homes or apartments as
28 offices for business activities conducted off the residential premises may have other
29 employees or independent contractors; provided, that such employees or independent
30 contractors do not perform labor or personal services on the residential premises, park
31 on or near the residential premises, or check in at the residential premises during the
32 course of business.

(11) The home occupation may include limited on-premises sales of products or stock-
in-trade, provided the applicant can clearly demonstrate that such sales will not be
inconsistent with other Type I standards. Examples of allowable on-premises sales
include cosmetics or similar products associated with a business where most products
are delivered to a customer's address, hair care products associated with a barber/beauty
shop and instructional materials pertinent to the home occupation, e.g., music books.
The display or storage of products or stock-in-trade outside a residence or in a window
is prohibited, except that vegetables, fruits, flowers and other agricultural products
grown on the premises may be offered for sale out-of-doors during the growing season.

(12) Activities conducted and equipment or material used shall not change the fire safety
or occupancy classifications of the premises. Utility consumption shall not exceed
normal residential usage.

(13) The home occupation shall not generate significantly greater traffic volume than
would normally be expected in the particular residential zone or neighborhood in which
the home occupation is conducted. Generally, delivery and pickup of materials to and
from the premises by a commercial vehicle should not exceed two trips per week. For
the purpose of this section, commercial vehicles shall not exceed a gross vehicle weight

1 of 20,000 pounds. Also, generally, traffic generated by a home occupation should not
2 exceed four round trips per day.

3 (14) If the home occupation is the type in which classes are held or instruction given,
4 there shall be no more than two students allowed in any one class or instruction period.

5 (g) Type II Home Occupation Standards.

6 (1) The home occupation will not harm the character of the surrounding neighborhood.

7 (2) The home occupation will not include storage, use or operation of building
8 materials, machinery, commercial vehicles or tools, unless:

9 (A) The activity is wholly enclosed within a structure or building;

10 (B) The activity would not result in noise, vibration, smoke, dust, odors, heat, glare or
11 other conditions exceeding in duration or intensity those normally produced by
12 residential use. Normal residential use shall be construed as including the above impacts
13 only on an occasional weekend or evening basis (e.g., in connection with a hobby or
14 home/yard maintenance), and not on a daily basis.

15 (3) The home occupation will not create a condition which injures or endangers the
16 comfort, repose, health and safety of persons on abutting properties or streets.

17 (4) The home occupation will not generate excessive traffic or necessitate excessive
18 parking beyond that normally associated with residential use in the neighborhood in
19 which the home occupation is located.

20 (5) The home occupation will include no more than two nonresident employees
21 working on-site when nonresident employees are involved. The home occupation may
22 have additional employees or independent contractors; provided, that such employees
23 or independent contractors do not perform labor or personal services on the residential
24 premises, park on or near the residential premises, or physically check in at the
25 residential premises during the course of business.

26 (6) The home occupation will not include the outdoor display and sale of products or
27 stock in trade, unless the applicant can demonstrate that such on-premises sales will not
28 result in noncompliance with other applicable standards governing Type I and Type II
29 home occupations.

30 (h) Other Regulations.

31 (1) Home occupations shall comply with all other local, state or federal regulations
32 pertinent to the activity pursued, and the requirements or permission granted or implied
by this section shall not be construed as an exemption from these regulations.

(2) Home occupation permits are issued to an individual applicant and shall not be
transferred or otherwise assigned to any other person. The permit will automatically
expire when the applicant named on the permit application moves from the site or moves
the business from the site. The home occupation shall also automatically expire if the
permittee fails to maintain a valid business license or the business license is suspended
or revoked. The home occupation shall not be transferred to any site other than that
described on the application form.

(3) Two or more home occupation permits may be issued for the same location if it is
determined that the sum of the businesses still meets the requirements of this chapter.

(4) The home occupation will comply with Chapter 22.26 FMC, Sign Regulations.

(i) Exemptions. The following activities shall be exempt from the provisions of this
section:

(1) Garage sales, yard sales, bake sales, occasional parties for the sale or distribution
of goods or services, and other like uses; provided, that any such garage sales and yard
sales involve only the sale of household goods, none of which were purchased for the
purpose of resale. If the collective total of all such sales and/or parties exceeds four

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events or 12 days in any calendar year, then such sales and/or parties shall be considered a home occupation;

(2) Family day-care facilities licensed by the Washington State Department of Social and Health Services; and

(3) Telecommuting, remote work and other alternative work options; provided in which the resident is an employee of an off-site company, a business license is not required, and the work does not require deliveries or customers visiting the home.

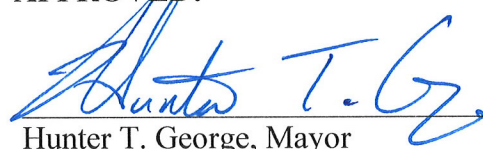
(j) Permit Fee Exemptions. Nonprofit organizations as defined by FMC 5.04.100c must apply for a home occupation permit but are exempt from a home occupation permit fee. Nonprofit organizations that are categorized as Type II home occupations are not exempt from the conditional use permit fee.

Section 2. Severability. If any section, sentence, clause or phrase of this title shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this title.

Section 3. Publication and Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the city. This ordinance shall be effective five (5) days after such publication.

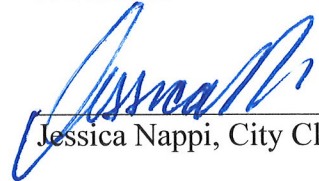
PASSED BY THE CITY COUNCIL OF THE CITY OF FIRCREST, WASHINGTON, at a regular meeting thereof this 14th day of November, 2017.

APPROVED:




Hunter T. George, Mayor

ATTEST:



Jessica Nappi, City Clerk

APPROVED AS TO FORM:



Michael B. Smith, City Attorney

DATE OF PUBLICATION:
EFFECTIVE DATE: