

**CITY OF FIRCREST  
ORDINANCE NO. 1637**

**AN ORDINANCE OF THE CITY OF FIRCREST, WASHINGTON, AMENDING ORDINANCE NO. 244 SECTION 1 AND FMC 14.08.010 RELATING TO PURPOSE; ADDING A NEW SECTION FMC 14.08.015 RELATING TO DEFINITIONS; AMENDING ORDINANCE NO. 244 SECTION 2 AND FMC 14.08.020 RELATING TO APPLICABILITY; ADDING A NEW SECTION FMC 14.08.025 RELATING TO JURISDICTION; AMENDING ORDINANCE NO. 244 SECTION 3 AND FMC 14.08.030 RELATING TO TREE CARE, PLANTING, REMOVING AND REPLACEMENT; AMENDING ORDINANCE NO. 244 SECTION 5 AND FMC 14.08.050 RELATING TO INTERFERING OR HAZARDOUS TREES; AMENDING ORDINANCE NO. 244 SECTION 6 AND FMC 14.08.060 RELATING TO ENFORCEMENT; AMENDING ORDINANCE NO. 244 SECTION 7 AND FMC 14.08.070 RELATING TO APPEALS; REPEALING ORDINANCE NO. 244 SECTION 8 AND FMC 14.08.080; REPEALING ORDINANCE NO. 244 SECTION 9 AND FMC 14.08.090; REPEALING ORDINANCE NO. 244 SECTION 10 AND FMC 14.08.100; AND AMENDING ORDINANCE NO. 987 SECTION 37 AND FMC 14.08.110 RELATING TO PENALTY FOR VIOLATIONS.**

**WHEREAS**, the City Council desire to create a healthy, sustainable urban forestry program; and

**WHEREAS**, a healthy urban forest benefits the community through an improved environment, reduced pollution, increased property values, and enhanced public health; and

**WHEREAS**, the proposed amendments are consistent with the goals, objective and polices of the comprehensive plan, in particular:

GOAL CC6  
Promote the planning, management and preservation of a safe and healthy urban forest that reflects community character goals by establishing effective programs, practices, landscaping standards, and guidelines.

GOAL CC7  
Achieve community character and urban design goals through the preservation, installation and maintenance of street trees and other landscaping in accordance with the City’s adopted street tree list, landscape regulations, and applicable design standards and guidelines.

**WHEREAS**, the City Council desires to qualify as a Tree City USA community. Now, Therefore,

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

2 **Section 1.** Section 1 of Ordinance No. 244 and FMC 14.08.010 are hereby amended to read  
3 as follows:

4 14.08.010 Purpose.

5 The purpose of this chapter is to establish standards and guidelines in order to preserve,  
6 maintain, protect, and improve the tree plantings in and along city rights-of-way, in planting  
7 strips, in public places and parks within the City enhance the beauty, livability, and value  
8 of the surrounding environment.

9 **Section 2.** A new section is hereby adopted to read as follows:

10 14.08.015 Definitions.

11 (1) "City" as used herein means the City of Fircrest acting by and through its authorized  
12 representatives.

13 (2) "Hazardous tree" means any street tree, or tree located in a park or on other public  
14 property, or part thereof, that the City determines is subject to a high probability of failure,  
15 due to structural defect or disease, and which poses a potential threat to persons or property  
16 in the event of failure. "Hazardous tree" also means any tree which interferes with electrical,  
17 telephone or other utility lines. Hazardous trees are not in danger of imminent failure.

18 (3) "Hedge" as used herein includes any plant material, shrub or plant, when planted in a  
19 dense, continuous line or area, as to form a thicket or barrier.

20 (4) "Imminent hazard" or "imminent hazardous tree" means a tree or any significant part  
21 thereof which has fallen, become partially uprooted, become split or severely broken apart,  
22 or is clearly about to fall in the very near future, due to a storm or other calamity, or disease  
23 or insect infestation.

24 (5) "Minor pruning" means pruning or cutting of water sprouts, suckers, twigs, or branches  
25 less than three inches in diameter and which constitute less than fifteen percent of the tree's  
26 foliage-bearing area. The work shall retain the natural form of the tree. Removal of dead  
27 wood, broken branches and stubs is included within the definition of minor pruning. Minor  
28 pruning may be performed by the property owner without obtaining a street tree permit from  
29 the City.

30 (6) "Nonconforming tree" means any street tree, or tree located in a park or on other public  
property, or part thereof, that is not of a type or species included in the approved street tree  
palette, in accordance with FMC 22.65.

(7) "Parks" includes all parks to which names have been given by action of the City Council.

(8) "Person" as used herein means individuals, firms, associations and corporations, and  
agents, employees or representatives thereof.

(9) "Plant" as used herein includes all other plant material, nonwoody, annual or perennial  
in nature, not necessarily hardy.

(10) "Planting strip" as used herein shall mean that area of city right-of-way lying between  
the sidewalk and the installed curb or edge of the city street or alley.

(11) "Public places" includes all grounds, other than streets or parks, owned by or leased to  
and under the control of the City of Fircrest.

- 1 (12) “Right-of-way” includes streets, alleys, planting strips, sidewalks and platted but  
unconstructed streets and alleys within the City.
- 2 (13) “Shrub” as used herein includes any woody perennial plant, normally low, several-  
3 stemmed, adaptable to shaping, trimming and pruning without injury, within the area  
planted.
- 4 (14) “Street” includes all land lying between the boundaries of property abutting on all  
public streets, boulevards, alleys and walks.
- 5 (15) “Street tree” as used herein includes any tree, shrub, bush, or other woody vegetation  
6 planted in a planting strip or in a city street or alley right-of-way.
- 7 (16) “Substantial pruning” means the pruning or cutting out of branches three inches in  
8 diameter or greater, root pruning, or cutting out of branches and limbs constituting greater  
than fifteen percent of the tree’s foliage-bearing area. The work shall retain the natural form  
of the tree.
- 9 (17) “Topping” means the severe cutting back of limbs leaving stubs beyond the branch  
10 collar within the tree’s crown or to such a degree as to remove a substantial portion of the  
normal canopy and disfigure the tree.

11 **Section 3.** Section 2 of Ordinance No. 244 and FMC 14.08.020 are hereby amended to read  
12 as follows:

13 14.08.020 Applicability.  
14 This chapter applies to all planting or removing of any tree, bush, or shrub on any public  
15 parking strip, right-of-way or other public place. The City shall have the power and authority  
to remove, plant, care for, restrict and maintain any such plantings in the right-of-way.

16 **Section 4.** A new section is hereby adopted to read as follows:

17 14.08.025 Jurisdiction.  
18 The City Public Works Department or designee shall have jurisdiction and control of the  
19 planting, setting out, location and placement of all trees in the public places, parks and  
streets of Fircrest and shall likewise have supervision, direction and control of the care,  
20 trimming, removal, relocation and replacement thereof.

21 **Section 5.** Section 3 of Ordinance No. 244 and FMC 14.08.030 are hereby amended to read  
as follows:

22 14.08.030 Tree Care, Planting, Removing and Replacement.  
23 (a) The City may plant, prune, maintain and remove any street tree or tree located in a city  
24 park, as may be necessary to ensure public safety or to preserve or enhance the appearance  
of public places. Existing trees shall be retained unless they are deemed to be seriously  
25 unhealthy or to cause hazards to public safety in the judgment of the City.  
26 (b) The City endorses and encourages the planting of appropriate trees within planting strips  
by abutting property owners. In order to ensure that street trees are appropriate for the  
27 particular space, are properly maintained, and, when necessary, are replaced, trees must be  
in the approved street tree palette, in accordance with FMC 22.65. A private property owner  
28 may be granted permission to remove a nonconforming tree or trees by the City, provided,

1 that said owner pays for the removal of the nonconforming tree or trees and for the purchase  
2 and planting in the same or nearby location of appropriate trees which are listed on the city  
street tree palette. Hazardous trees removed by utility companies do not require  
replacement.

3 (c) It is unlawful for any person other than an authorized city employee, or designee, to  
4 destroy, plant, move, remove or replace any tree, shrub, hedge or plant in any public place,  
5 park or along any street designated as an arterial or collector, or to cause the same to be  
done, unless and until a written permit to do so has first been obtained. This requirement  
shall extend to the street trees planted along San Juan Avenue.

6 (d) Spacing of street trees, on average, shall be 30 feet on center. Generally, trees should be  
7 planted at least 10 feet from utility or light poles or fire hydrants, 20 feet from street corners,  
and 10 feet from driveways.

8 (e) Street trees shall be deciduous and should have a caliper of at least one and three-quarters  
9 inches at the time of planting.

10 (f) Street trees shall be high-branching with a canopy that starts at least six feet above  
11 finished grade, and have roots which will not break up sidewalks or roadbeds or invade  
utility lines. For areas without overhead power lines, tree types shall be planted which will  
achieve a minimum height of 30 feet at maturity.

12 (g) Street tree types shall be selected in accordance with the approved street tree palette  
13 contained in FMC 22.64. Tree types and locations shall take into consideration lighting  
14 requirements for streets, parking, and pedestrian circulation areas, and signage  
requirements. The tree type shall not bear fruit or release sticky substances.

15 (h) Root deflectors or other planting specifications may be required if recommended by a  
professional landscape architect or arborist.

16 **Section 6.** Section 5 of Ordinance No. 244 and FMC 14.08.050 are hereby amended to read  
17 as follows:

18 14.08.050 Interfering or Hazardous Trees.

19 (a) The City may inspect any tree upon or which overhangs any public street in the City to  
20 determine whether the same or any portion thereof is in such a condition as to constitute a  
21 hazard or impediment to the progress or vision of anyone traveling on such public street.  
22 Any tree or part thereof growing upon private property but overhanging or interfering with  
23 the use of any street that in the opinion of the City official endangers the life, health, safety  
or property of the public shall be declared a public nuisance. If the owner of such private  
property does not correct or remove such nuisance within fourteen days after receipt of  
written notice thereof from the public works director, or designee, the City shall cause the  
nuisance to be corrected or removed and the cost shall be assessed to such owner.

24 (b) The City may inspect any tree which appears to be, or has been reported to be, dead or  
25 suffering from an infectious disease or insect infestation condition, whether said tree is in a  
26 public place or on private property. The City shall have the right to cause the removal of  
27 any dead, diseased or infected tree located within the City, whether located in a public place  
28 or on private property, when the City determines that such tree constitutes a hazard to life  
or property, or harbors insects or disease which constitutes a potential threat to other trees  
within the City. This subsection shall apply to any tree upon private property, whether or  
not the tree interferes with or endangers the use of a public right-of-way.

1 **Section 7.** Section 6 of Ordinance No. 244 and FMC 14.08.060 are hereby amended to read  
2 as follows:

3 14.08.060 Enforcement.

4 If any tree which appears to be, or has been reported to be, dead or suffering from an  
5 infectious disease or insect infestation condition is located on private property, the owner(s)  
6 shall be notified of such tree in writing of the City's determination that such tree must be  
7 removed. Removal of such tree shall be done by said owners at their own expense within  
8 fourteen days after the date of mailing of the notice. In the event that the owner(s) fails to  
9 remove such trees within fourteen days, and fails to file a written notice of appeal pursuant  
10 to FMC 14.08.70, the City shall have the authority to remove such tree, and the costs of  
11 removal shall be assessed against the owner(s) and a lien filed against the property.

12 **Section 8.** Section 7 of Ordinance No. 244 and FMC 14.08.070 are hereby amended to read  
13 as follows:

14 14.08.070 Appeals.

15 Any person aggrieved by any act or determination of a City official in the exercise of the  
16 authority herein granted shall have the right of appeal to the hearing examiner whose  
17 decision, after a public hearing, on the matter shall be final and conclusive. Notice of appeal  
18 must be filed in writing with the City Manager within fourteen (14) days from the act or  
19 determination complained of. The public hearing before the hearing examiner shall be set  
20 no later than thirty (30) calendar days following the receipt by the city administrator of the  
21 written notice of appeal. The City Manager shall notify the appellant in writing of the date,  
22 time and location of the public hearing at least ten calendar days prior to the hearing.

23 **Section 9.** Section 8 of Ordinance No. 244 and FMC 14.08.080 are hereby repealed.

24 **Section 10.** Section 9 of Ordinance No. 244 and FMC 14.08.090 are hereby repealed.

25 **Section 11.** Section 10 of Ordinance No. 244 and FMC 14.08.100 are hereby repealed.

26 **Section 12.** Section 37 of Ordinance No. 987 and FMC 14.08.110 are hereby amended to  
27 read as follows:

28 14.08.110 Penalty for Violations.

29 Any person who violates any of the provision of this chapter shall be guilty of a  
30 misdemeanor for each offense.

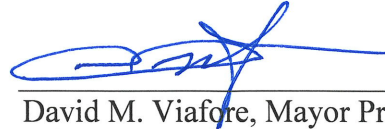
**Section 13.** Severability. If any section, sentence, clause or phrase of this title shall be held  
to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or  
unconstitutionality shall not affect the validity or constitutionality of any other section,  
sentence, clause or phrase of this title.

**Section 14.** This ordinance shall take effect and be in full force five (5) days after  
publication of an approved summary consisting of its title.

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**PASSED BY THE CITY COUNCIL OF THE CITY OF FIRCREST,  
WASHINGTON**, at a regular meeting thereof this 28th day of May 2019.

**APPROVED:**



David M. Viafore, Mayor Pro Tempore

**ATTEST:**



Jessica Nappi, City Clerk

**APPROVED AS TO FORM:**



Michael B. Smith, City Attorney

**DATE OF PUBLICATION:**

**EFFECTIVE DATE:**