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**CITY OF FIRCREST  
ORDINANCE NO. 1721**

**AN ORDINANCE OF THE CITY OF FIRCREST, WASHINGTON,  
AMENDING FIRCREST MUNICIPAL CODE (FMC) 9.48.015  
RELATED TO OFFENSES AND PENALTIES, AND FMC 9.48.080  
RELATED TO SEARCH AND SEIZURE OF GOODS AND  
PROPERTY; PROVIDING FOR SEVERABILITY; AUTHORIZING  
CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE**

**WHEREAS**, the City protects the public health, safety, and welfare through the adoption by reference and enforcement of numerous Washington criminal statutes, including without limitation applicable provisions of the Uniformed Controlled Substances Act (UCSA) codified at Chapter 69.50 RCW; and

**WHEREAS**, on February 25, 2021, the Washington Supreme Court issued its decision in *State v. Blake*, 197 Wn.2d 170 (2021), holding that RCW 69.50.4013(1), the Washington statute that criminalized the possession of a controlled substance without a prescription, exceeded the State’s police power and violated the due process clauses of the Washington and United States Constitutions by creating a strict-liability felony offense; and

**WHEREAS**, on May 16, 2023, the Washington State Legislature passed, and Governor Inslee subsequently signed, Second Engrossed Second Substitute Senate Bill (2E2SSB) 5536, which permanently addresses the criminality of drug possession and use in Washington in the wake of the Washington Supreme Court’s *State v. Blake* decision; and

**WHEREAS**, the City Council finds that it is in the interest of the public health, safety and welfare to provide its Police Department with the ability, to the fullest extent of the law, to enforce the prohibitions against knowing possession and knowing public use of controlled and counterfeit substances contained in 2E2SSB 5536, by amending provisions of Fircrest Municipal Code (FMC) Chapter 9.48.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FIRCREST  
DOES ORDAIN AS FOLLOWS:**

**Section 1.** Amending FMC 9.48.015. The City Council hereby amends FMC 9.48.015 “Offenses and penalties – Statutes adopted by reference” as set forth herein:

**9.48.015 Offenses and penalties – Statutes adopted by reference.**

Pursuant to the authority contained in RCW 35.21.180, the following sections of Chapter 69.50 RCW as enacted or hereinafter amended are hereby adopted by reference as if fully set forth herein including penalties:

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RCW

69.50.401 Prohibited acts: A - Penalties

69.50.4013 Possession of controlled substance – Penalty – Possession of useable cannabis, cannabis concentrates, or cannabis-infused products – Delivery.

69.50.4014 Possession of 40 grams or less of cannabis – Penalty.

69.50.4017 Alternatives to prosecution – Pretrial diversion.

69.50.4018 Sentencing considerations.

69.50.404 Penalties under other laws.

69.50.407 Conspiracy.

69.50.408 Second or subsequent offenses.

69.50.412 Prohibited acts: E - Penalties (includes drug paraphernalia).

69.50.4121 Drug paraphernalia – Selling - Penalty.

69.50.435 Violations committed in or on certain public places or facilities – Additional penalty – Defenses – Constructions – Definitions.

**Section 2.** Amending FMC 9.48.080. The City Council hereby amends FMC 9.48.080 “Search warrant – Issuance when – Seizure of goods and property” as set forth herein:

**9.48.080 Search warrant – Issuance when – Seizure of goods and property.**

If, upon the sworn complaint of any person it is made to appear to any judge of any court of competent jurisdiction in the matter that there is probable cause to believe that any drug or other controlled substance is being used, manufactured, sold, offered for sale, bartered, exchanged, administered, dispensed, delivered, distributed, produced, knowingly possessed, given away, furnished or otherwise disposed of, or kept in violation of the provisions of this chapter, such judge shall issue a warrant directed to the Fircrest chief of police; or any police officer in the Fircrest police department, commanding them to search the premises designated and described in such complaint and warrant, and to seize all drugs or other controlled substances there found, together with the vessels in which they are contained, and all implements, furniture and fixtures used or kept for the illegal manufacture, sale, barter, exchange, administering, dispensing, delivering, distributing, producing, possessing, giving away, furnishing or otherwise disposing of such.

**Section 3. Severability.** If any section, sentence, clause, or phrase of this ordinance should be held invalid or unconstitutional by a court of competent jurisdiction, such

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invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this sentence.

**Section 4. Corrections.** The City Clerk and codifiers of the ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 5. 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 27<sup>th</sup> day of February, 2024.

**APPROVED:**

S. Reynolds  
Shannon Reynolds, Mayor

**ATTEST:**

Arlette Burkhardt  
Arlette Burkhardt, Acting City Clerk

**APPROVED AS TO FORM:**

Robert Zeinemann  
Robert Zeinemann, City Attorney

**DATE OF PUBLICATIONS:**

**EFFECTIVE DATE:**