

**CITY OF FIRCREST
ORDINANCE NO. 1728**

**AN ORDINANCE OF THE CITY OF FIRCREST, WASHINGTON,
ADOPTING A NEW CHAPTER 9.50 IN FIRCREST MUNICIPAL
CODE (FMC) RELATED TO “ENDANGERMENT WITH A
CONTROLLED SUBSTANCE”; PROVIDING FOR SEVERABILITY;
AUTHORIZING CORRECTIONS; AND ESTABLISHING AN
EFFECTIVE DATE**

WHEREAS, the misuse of controlled substances in Washington State is a growing public health crisis, resulting in negative health outcomes such as addictions, overdoses, and deaths for far too many community members; and

WHEREAS, drug overdose and drug poisoning moved from the sixth leading cause of death among children aged 1-19 years of age in the United States in 2019 to third in 2020, which included a 110.6 percent increase in unintentional poisonings; and

WHEREAS, drug poisonings in Washington have increased steadily since 2014, increasing 30 percent from 2019 to 2020, another 30 percent from 2020 to 2021, and 17 percent from 2021 to 2022 according to the University of Washington Addictions, Drug, and Alcohol Institute; and

WHEREAS, opioid-related overdose is the most common cause of accidental death in Pierce County, outnumbering motor vehicle collisions and firearm deaths according to the Tacoma-Pierce County Health Department; and

WHEREAS, between 2020 to 2022, Pierce County experienced 32.53 deaths per 100,000 residents due to overdose, a higher rate than the state average of 27.98 for the same period; and

WHEREAS, controlled substances come in all forms, and they are regularly made into powders, pills, candies, eye droppers, and nasal sprays; and

WHEREAS, users are entirely unable to discern by sight, taste, or smell just how potent and dangerous these illicit drugs may be due to unregulated sources. The identity, purity, and quantity are uncertain and inconsistent, thus posing significant adverse health risks not only to the user, but also to their family members or members of the public who may be exposed inadvertently or through secondhand contact; and

WHEREAS, these risks are particularly high for children and other dependent persons who may live in close proximity to and come in contact with controlled substances through no fault of their own; and

WHEREAS, 1 in 8 children nationwide aged 17 or younger lived in households with at least one parent who had a past substance use disorder according to a 2014 report by the Substance Abuse and Mental Health Services Administration (SAMHSA); and

WHEREAS, fentanyl is often up to 50 times more potent than heroin and other synthetic opioids such as nitazenes and carfentanil, and 50 to 100 times more potent than morphine; and

1 **WHEREAS**, the ease of illicit manufacture and potency of synthetic opioids has driven
2 down illegal drug prices making these illegal drugs more widely available and caused
3 synthetic opioids to be mixed with street drugs such as heroin, cocaine, and
methamphetamine; and

4 **WHEREAS**, the *Washington State Office of the Family and Children's Ombuds Child*
5 *Fatalities and Near Fatalities in Washington State* September 2023 report states that over
6 a quarter of the child fatalities and more than half of the child near fatalities involved
accidental ingestions and overdoses in 2022; and

7 **WHEREAS**, the Washington Poison Center had 116 cases in 2020 which involved the
8 accidental exposure of children ages 0-5 years to opioids and opiates and it is believed
many more cases go unreported; and

9 **WHEREAS**, the Washington State Department of Health reports youth (ages 0-17) died
10 from drug overdoses at the rate of 148 youth in 2016, 160 youth in 2017, 159 youth in
11 2018, 149 youth in 2019, 247 youth in 2020, 340 youth in 2021, 346 youth in 2022, and
378 youth in 2023; and

12 **WHEREAS**, in August of 2022, a two-year-old child nearly died after consuming a
13 fentanyl pill in Tacoma's Oakland Madrona Park; and

14 **WHEREAS**, according to the Tacoma-Pierce County Health Department, deaths and
15 emergency room visits from overdoses involving synthetic opioids, methamphetamine,
16 and cocaine are on the rise and neighboring counties are starting to see overdoses related
to tranquilizers like xylazine; and

17 **WHEREAS**, for those who survive exposure, an overdose can result in acute and
18 potentially chronic medical complications, including cognitive impairment, brain injury,
and cardiac arrhythmia; and

19 **WHEREAS**, exposure to controlled substances is a threat to the health and safety of all
20 people, especially so for the children and dependent persons who are in close proximity
21 to individuals who use illegal substances and sufficient mechanisms must be in place to
hold people accountable when children and dependent persons are exposed to life-
threatening harms; and

22 **WHEREAS**, the Fircrest City Council encourages the State Legislature to consider
23 amending [RCW 9A.42.100](#), "Endangerment with a Controlled Substance," to include all
24 controlled substances as a Class B felony; in the interim, the City Council finds it is
25 necessary and appropriate to take action in its capacity to establish City Code to protect
26 public health and safety, especially of the most vulnerable, and desires to take immediate
steps to deter the endangerment of children and other vulnerable populations caused by
the dangers of exposure to controlled substances;

27 **NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FIRCREST DO**
28 **ORDAIN AS FOLLOWS:**

29 **Section 1. Chapter 9.50 FMC, New Chapter.** New Chapter 9.50 FMC, "Endangerment
30 with a Controlled Substance," is hereby adopted to read as follows:
31
32

Chapter 9.50
ENDANGERMENT WITH A CONTROLLED SUBSTANCE

Sections:

9.50.010 Definitions.

9.50.020 Endangerment with a Controlled Substance.

9.50.030 Penalty for Violations.

9.50.040 Preemption.

9.50.050 Severability.

9.50.010 Definitions.

For the purpose of this Chapter, the following terms shall apply:

- A. "Cannabis" shall have the same meaning as defined in [RCW 69.50.101](#).
- B. "Child" shall have the same meaning as defined in [RCW 9A.42.010](#).
- C. "Controlled substance" shall have the same meaning as defined in [RCW 69.50.101](#).
- D. "Dependent person" shall have the same meaning as defined in [RCW 9A.42.010](#).

9.57.020 Endangerment with a Controlled Substance.

- A. A person is guilty of the crime of endangerment with a controlled substance if the person knowingly or recklessly permits a child or dependent person to ingest, inhale, absorb, or have contact with a controlled substance other than cannabis, unless the controlled substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice.
- B. Administering or providing a controlled substance to a child or dependent person in the course of delivering health care services pursuant to a bona fide prescription for that child or dependent person and consistent with appropriate administration directives from a licensed medical professional who prescribed the controlled substance is not a violation of this Section.

9.57.030 Penalty for Violations.

Unless otherwise specified, any person who violates this Chapter is guilty of a gross misdemeanor punishable by up to 364 days in jail and a \$5,000 fine. The Prosecuting Attorney is encouraged to consider referring such cases for assessment, treatment, and other services including referral to alternative resolution courts following for formal filing of charges.

9.57.040 Preemption.

In the event the Washington State Legislature passes a law preempting this Chapter, this Chapter shall cease to have effect on the same date the statute comes into effect. Any violation of this Chapter that occurs prior to the preempting statute coming into effect may be prosecuted and punished pursuant to this Chapter.

9.57.050 Severability.

If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of this Chapter or the application of the provisions to other persons or circumstances is not affected.

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

5 **Section 3. Corrections.** The City Clerk and codifiers of the ordinance are authorized to
6 make necessary corrections to this ordinance including, but not limited to, the correction
7 of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers
8 and any references thereto.

9 **Section 4. Publication and Effective Date.** A summary of this ordinance consisting of
10 its title shall be published in the official newspaper of the city. This ordinance shall be
11 effective five (5) days after such publication.

12 **PASSED BY THE CITY COUNCIL OF THE CITY OF FIRCREST,**
13 **WASHINGTON,** at a regular meeting thereof this 24th day of September, 2024.

14 **APPROVED:**

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16 Shannon Reynolds, Mayor

17 **ATTEST:**

18 

19 Arlette Burkhardt, City Clerk

20 **APPROVED AS TO FORM:**

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22 Robert Zeinemann, City Attorney

23 **DATE OF PUBLICATIONS:**
24 **EFFECTIVE DATE:**