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**CITY OF FIRCREST
ORDINANCE NO. 1438**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIRCREST, WASHINGTON, RELATING TO LAND USE AND DEVELOPMENT, AMENDING THE DEVELOPMENT REGULATIONS TO ALLOW INCREASED FENCE HEIGHTS IN SIDE STREET SIDE YARDS; AMENDING ORDINANCE 1311 § 27 AND SECTION 22.58.004 OF THE FIRCREST MUNICIPAL CODE.

WHEREAS, the City is required to periodically review and revise its development regulations to ensure that they comply with the Growth Management Act, are consistent with and supportive of the City’s Comprehensive Plan, and reflective of local needs, new data, and current laws; and

WHEREAS, the City Planning Commission is authorized, under section 23.08.110 FMC, to make recommendations to the city council regarding the regulation of and restrictions on the use of land, the location, construction and use of buildings, and other related matters which are or might properly be incorporated into city ordinances dealing with zoning, building, plats and subdivisions, parks and annexation; and

WHEREAS, citizen comment at a Planning Commission meeting in January of 2006 stated that the current requirements requiring a maximum height of four feet solid with two-feet 50% open at the top produces an ugly product and is not readily commercially available; and

WHEREAS, at its regular meeting of May 2, 2006, the Planning Commission conducted a public meeting to discuss the City’s current policy and regulations regarding the maximum height for hedges and fences, particularly as it relates to fences in side street side yards; and

WHEREAS, the Commission directed staff to prepare a draft amendment that allows a solid 6-foot high fence in side street side yards; and

WHEREAS, the Planning Commission discussed the maximum height of hedges, which limits hedges to 6-feet, is not meaningful except when it relates to maintaining vision to streets and sidewalks; and

WHEREAS, the Planning Commission conducted a public hearing on the proposed amendments on August 2, 2006; and

WHEREAS, following the public hearing, the planning commission voted to recommend a “do pass” on the proposed code amendment to FMC 22.58.004 to the Fircrest City Council; and

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WHEREAS, the City Council, upon consideration of the Planning Commissions recommendation, conducted a public hearing on the proposed amendments; Now, Therefore,

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

Section 1. Ordinance 1311 § 27, and Section 22.58.004 of the Fircrest Municipal Code is hereby amended to read as follows:

22.58.004 Fences, walls and hedges.

(a) Fences and walls located within a required yard in a residential zoning district shall not exceed the following height limits:

- (1) Front yard equals four feet.
- (2) Side street side yard equals six feet.
- (3) Interior side and rear yard equals six feet plus one foot of lattice or other material with a surface area that is no more than 50 percent obstructed. See Figure 2.
- (4) Clear vision triangle equals two feet, six inches above centerline grades of intersecting streets (see FMC 22.58.005).

(b) Fences and walls located in a residential zoning district may exceed the preceding height limits if located outside of required yards or within the allowable building envelope for the principal residential structure. Fences and walls may also exceed the limits specified in subsections (a)(1), (2), and (3) of this section if they are intended to enclose public school grounds, parks, playgrounds, substations, wells or other municipal installations.

(c) Fences and walls located within a commercial or industrial zoning district may exceed the height limits specified in subsection (a) of this section, provided the fence or wall design complies with the city’s design guidelines.

(d) Fence height is measured from the ground level where placed or from a retaining wall to the top of the fence, excluding posts. On sloping properties where a fence is constructed of sections which are terraced to match the terrain, fence height shall be the average of the high and low points of each fence section. In such instances, portions of the fence may exceed the maximum allowable height; provided, that the average height of the fence section does not exceed the maximum height.

(e) Solid fences or walls higher than two feet within the front yard are prohibited; this does not include hedges. Front yard fences and walls shall have a surface area that is no more than 50 percent obstructed. See Figure 2.

(f) Fence pillars or posts may project a maximum of one foot above maximum fence height.

1 (g) An administrative exception may be granted to allow the front yard fence height to
2 exceed the four-foot height limit in subsection (a)(1) of this section if the director finds
3 that:

4 (1) The principal residential structure existing on the lot at the time of application
5 encroaches into the required front yard.

6 (2) The proposed fence will not encroach into the required front yard any further than
7 the existing principal residential structure.

8 (3) The fence will not exceed a maximum height of six feet; provided, that the portion of
9 the fence exceeding five feet in height shall consist of lattice or other material having a
10 surface area that is no more than 50 percent obstructed. See Figure 2.

11 (4) The fence will not be located within a clear vision triangle.

12 (h) Fences and walls shall not be located within a public street right-of-way unless an
13 encroachment variance is granted by the planning commission. The request shall be
14 processed as a major variance in accordance with Chapter 22.74 FMC. In order to grant
15 an encroachment variance, the planning commission shall adopt written findings
16 showing that the criteria listed in FMC 22.74.003 and the following criteria are met by
17 the proposal:

18 (1) The fence or wall will comply with clear vision triangle standards, if applicable.

19 (2) The placement of the fence or wall will not interfere with underground utilities.

20 (3) The fence or wall will not compromise public safety by restricting the ability of
21 sidewalk users to avoid conflicts with competing users of the sidewalk.

22 (4) The property owner will be able to obtain and maintain insurance coverage that holds
23 the city harmless in the event that a claim is filed relating to the fence or wall. The
24 coverage will be provided at a level determined to be acceptable by the risk manager and
25 city attorney, and the property owner will provide documentation of coverage annually
26 to the city.

27 (i) All private swimming pools, wading pools, spas and hot tubs shall be provided with a
28 fence or wall to prevent unauthorized access. See FMC 12.04.020(a) and UBC
29 Appendix Chapter 4 for specific standards.

30 (j) A building permit is required for all fences exceeding six feet in height. A fence
31 permit is required for all fences located in required front yards, side street side yards,
yards adjoining through-lot street frontages, and clear vision triangles.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance
should 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 ordinance.

Section 3. Effective Date: This ordinance shall take effect and be in full force five (5)
days after publication of an approved summary consisting of its title.

**PASSED BY THE CITY COUNCIL OF THE CITY OF FIRCREST,
WASHINGTON,** at a regular meeting thereof this 10th day of July, 2007.

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APPROVED:

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David M. Viafore, Mayor

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ATTEST:

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Rick Rosenblatt, City Clerk

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APPROVED AS TO FORM:

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Michael B. Smith, City Attorney

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Publication Date: July 14, 2007

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Effective Date: July 19, 2007

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