

ORDINANCE NO. 21XX

AN ORDINANCE OF THE CITY OF CRETE, NEBRASKA RELATING TO HISTORIC PRESERVATION; TO REPEAL THE EXISTING CHAPTER 2, ARTICLE 18 OF THE CRETE MUNICIPAL CODE; TO ENACT A NEW CHAPTER 2, ARTICLE 18 TO ESTABLISH A HISTORIC PRESERVATION COMMISSION AND GOVERN THE OPERATIONS THEREOF; TO PROVIDE FOR THE DESIGNATION OF LANDMARKS AND LANDMARK DISTRICTS; AND TO PRESCRIBE PROCEDURES FOR THE REVIEW AND APPROVAL OF ACTIONS AFFECTING HISTORIC PROPERTIES.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CRETE, NEBRASKA:

Section 1. That all existing sections of Chapter 2, Article 18 of the Crete Municipal Code shall be repealed in full.

Section 2. That a new Chapter 2, Article 18, Section 2-1801 of the Crete Municipal Code shall be enacted to read as follows:

2-1801 Historic Preservation Act; how cited; findings; purpose.

- (1) The provisions of this Article shall be known and may be cited as the Historic Preservation Act.
- (2) The City Council hereby finds and declares that the designation, preservation, protection, and enhancement of buildings, places, and districts that have historical and cultural significance within the City of Crete promotes the general welfare of the community and contributes to economic prosperity, civic pride, and educational opportunities; that the economic, cultural, historical, and aesthetic interests of the City cannot be maintained or enhanced by disregarding the heritage of the City; and that the residents of the community have a vested interest in the maintenance, preservation, demolition, or alteration of historical and cultural assets.
- (3) Based on these findings and declarations, the purpose of the Historic Preservation Act shall be to:
 - (a) Safeguard and foster civic pride in the City's historical and cultural heritage;
 - (b) Protect, enhance, and perpetuate properties that have elements of historical and cultural significance;
 - (c) Promote revitalization, enhancement of property values, and economic development by preserving historic and cultural properties;
 - (d) Stabilize or improve the vitality and values of historic and cultural properties;
 - (e) Stimulate the revitalization of historic business districts and neighborhoods;
 - (f) Enhance the City's attraction to tourists, visitors, and potential residents; and
 - (g) Encourage the continued use and stewardship of historic properties.

Section 3. That a new Chapter 2, Article 18, Section 2-1802 of the Crete Municipal Code shall be enacted to read as follows:

2-1802 Act; definitions.

For purposes of the Historic Preservation Act, unless the context otherwise requires, the following definitions shall apply:

- (1) “Alteration” means any act or process that may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property as a landmark or part of a landmark district or for inclusion in the National Register in a manner that would diminish the integrity of the property’s location, design, setting, materials, workmanship, feeling, or association.
- (2) “Certificate of Appropriateness” means a certificate from the Historic Preservation Commission approving plans for work on a historic property, alterations, demolition, or new construction within a landmark district.
- (3) “Commission” means the Historic Preservation Commission established by Section 2-1803.
- (4) “Compatible” means the general design and character of proposed work to a landmark or property within a landmark district is consistent with the Secretary of Interior’s *Standards for Rehabilitation* and associated design guidelines.
- (5) “Design guidelines” means the design criteria for all work, alterations, renovations, and new construction, which includes applying the Secretary of the Interior’s *Standards for Rehabilitation*.
- (6) “Landmark” means any single building, site, structure, object, or improvement that has special historical or cultural significance to the City of Crete, State of Nebraska, or the United States of America, or an integrated group of any of the above that are on a single lot or parcel that has been designated as a landmark pursuant to this Act.
- (7) “Landmark District” means an area or section of the city that contains a significant number of buildings, sites, structures, objects, or improvements that, when considered as a whole, possess historical or cultural significance to the City of Crete, State of Nebraska, or the United States of America.
- (8) “National Register of Historic Places” or “National Register” means the official list of historic properties that have local, state, or national significance maintained by the United States Department of the Interior, National Park Service.
- (9) “Property” means a building, site, structure, object, or improvement.
- (10) “Rehabilitation” means the act or process of making possible an efficient compatible use for a property through repair, renovations, or additions while preserving those portions or features that convey its historical, cultural, or architectural values.
- (11) “Secretary of the Interior’s *Standards for Rehabilitation*” means the standards promulgated by the United States Department of the Interior, National Park Service to guide rehabilitation work on historic properties.
- (12) “Secretary of the Interior’s *Standards for Identification and Registration*” means the criteria and procedures for the designation of historic properties promulgated by the United States Department of the Interior, National Park Service.

Section 4. That a new Chapter 2, Article 18, Section 2-1803 of the Crete Municipal Code shall be enacted to read as follows:

2-1803 Historic Preservation Commission; established.

There shall be and there is hereby created, in and for the City of Crete, a Historic Preservation Commission, which shall consist of five members that have a demonstrated interest or expertise in historic preservation, design, or architecture.

Section 5. That a new Chapter 2, Article 18, Section 2-1804 of the Crete Municipal Code shall be enacted to read as follows:

2-1804 Commission; appointment of members; terms; removal; vacancy.

- (1) The five members of the Commission shall be appointed by the Mayor with the approval of the City Council. A majority of the members shall be professionals in the fields of archeology, historic archeology, architectural history, architecture, or history.
- (2) Members shall serve a three-year term and shall be appointed on a staggered basis. Initially, two members of the Commission shall be appointed for three-year terms, two members shall be appointed for two-year terms, and one member shall be appointed for a one-year term. Members may serve for more than one term.
- (3) Any member of the Commission may be removed from office by the Mayor for truancy, incompetency, dereliction of duty, malfeasance in office, or other good cause.
- (4) In the event of a vacancy, an appointment shall be made to fill the vacancy in the same manner as provided herein. The newly appointed member shall serve for the remainder of the unexpired term.

Section 6. That a new Chapter 2, Article 18, Section 2-1805 of the Crete Municipal Code shall be enacted to read as follows:

2-1805 Commission; organization; meetings; rules and regulations.

- (1) Each December, the Commission shall meet and elect a chairperson and vice-chairperson to serve for the following year. If either officer resigns or is removed from office, a successor shall be elected as the first item of business at the next meeting of the Commission.
- (2) The City Administrator or their designee shall be the Director of Historic Preservation and shall participate in all meetings of the Commission as a non-voting member.
- (3) The City Administrator shall designate a city officer or employee to serve as secretary to the Commission. The secretary shall prepare, distribute, and keep agendas and minutes of each meeting of the Commission, preserve all records and reports made to it, and perform such other duties as the City Administrator may assign. The secretary shall not have the right to vote on or participate in the discussion of any business taken up by the Commission.
- (4) The Commission shall meet the first month of each calendar year quarter and as necessary upon the call of the chairperson, Mayor, or City Administrator.
- (5) Three of the five voting members of the Commission shall constitute a quorum for the transaction of business, and, unless otherwise provided for, three affirmative votes shall be required for action on any motion, order, or other matter acted upon by the Commission.
- (6) The Commission may adopt and promulgate rules and regulations, not inconsistent with law, to govern its parliamentary procedures, internal affairs and processes, and the execution of any powers and duties

assigned by this Act. Any rules and regulations adopted by the Commission shall be subject to the approval of the City Council before such rules and regulations take effect.

Section 7. That a new Chapter 2, Article 18, Section 2-1806 of the Crete Municipal Code shall be enacted to read as follows:

2-1806 Commission; powers and duties.

The Historic Preservation Commission shall have the power and duty:

- (1) To conduct ongoing surveys of the community to identify and maintain an inventory of historic and cultural properties and their potential eligibility as local landmarks or landmark districts;
- (2) To adopt criteria and procedures for the survey, evaluation, and designation of local landmarks and landmark districts that are consistent with this Act and the Secretary of the Interior's *Standards for Identification and Registration*;
- (3) To maintain and preserve a register of all properties that have been designated as local landmarks, are located within a landmark district, or are listed on the National Register of Historic Places;
- (4) To prepare and process nominations of properties potentially eligible for listing in the National Register of Historic Places and comment on properties nominated;
- (5) To advocate for the benefits of historic preservation and rehabilitation and the value in protecting and enhancing properties that have historical or cultural value;
- (6) To advise city officials regarding the preservation of properties having historical or cultural value;
- (7) To participate in all building and zoning processes that affect proposed or designated landmarks or landmark districts, which includes:
 - (a) Recommending zoning regulations or amendments that are appropriate for the protection and preservation of landmarks or landmark districts;
 - (b) Reviewing proposed zoning regulation amendments that may affect historic properties;
 - (c) Reviewing applications and providing recommendations on special use permits and variances;
and
 - (d) Reviewing applications and holding public hearings on proposed work on landmarks or properties within landmark districts;
- (8) To adopt the Secretary of the Interior's *Standards for Rehabilitation* and historic design guidelines for the review of landmarks and properties within landmark districts;
- (9) To cooperate with all local, state, and federal agencies, departments, boards, and commissions in any matters relating to historic properties and historic or cultural preservation; and
- (10) To prepare and submit an annual report of its past actions and future goals to the City Council in September of each year.

Section 8. That a new Chapter 2, Article 18, Section 2-1807 of the Crete Municipal Code shall be enacted to read as follows:

2-1807 Commission; appeal from decision; written request; administrative hearing.

- (1) Any person aggrieved by a decision of the Historic Preservation Commission may appeal such decision by filing a written request for a hearing, pursuant to Section 2-2005, within fifteen days after the date notice of the decision was given.
- (2) Upon receipt of a written request for a hearing, an administrative hearing shall be scheduled and held pursuant to Sections 2-1001 to 2-1011.

Section 9. That a new Chapter 2, Article 18, Section 2-1808 of the Crete Municipal Code shall be enacted to read as follows:

2-1808 Landmarks and landmark districts; eligibility; procedure for designation.

- (1) A landmark or landmark district shall possess integrity of design, location, setting, feeling, association, materials, or workmanship. To be eligible for designation, a proposed landmark or landmark district shall be at least fifty years of age, unless exceptional significance can be demonstrated, and meet one or more of the following criteria:

 - (a) Be the site of or associated with a specific historic event;
 - (b) Be associated with a pattern of events or a historic trend that contributed significantly to the broad pattern of history or culture of the community;
 - (c) Be associated with the life of a significant historic person;
 - (d) Exemplify the cultural, historical, political, educational, social, or aesthetic values of the community;
 - (e) Embody the distinctive characteristics of a style, type, period, or method of architecture or construction, represent the work of a master craftsman or artisan, possess high artistic value, or represent a significant and distinguishable entity whose components may lack individual distinction; or
 - (f) Exhibit archeological significance by yielding or being likely to yield important information regarding history or prehistory.
- (2) Landmark or landmark district designations may be proposed by the Historic Preservation Commission or city officials or may be petitioned by any person, owner, resident, or group thereof. Any proposal or petition shall be filed with the City Clerk and shall include all of the information required by the City and the Commission, including, but not limited to, a description of the proposed landmark or landmark district and a statement of the historic or cultural significance that justifies the designation. In the case of a landmark district, provisions shall be made to define an accurate boundary and to identify properties that contribute to the historical significance of the district and those that, because of age or lack of integrity, do not contribute.
- (3) The Historic Preservation Commission or a subcommittee thereof shall review proposals and petitions to determine whether the proposed landmark or landmark district is eligible for designation according to the criteria listed in subsection (1). If the proposed landmark or landmark district is deemed eligible, the Commission shall hold a public meeting to discuss the designation and may approve, disapprove, or modify the proposal or petition of a landmark or landmark district. The Commission shall notify the proposer or petitioners of any actions taken within ten days of the public meeting.

- (4) Except as provided herein, the Historic Preservation Commission shall hold a public hearing on all proposed landmarks or landmark districts. Notice of the time, place, and purpose of the public hearing shall be given in a legal newspaper of general circulation in the City not less than ten days prior to the date of the hearing and shall be mailed to all current property owners of the proposed landmark or of parcels within the proposed landmark district. For the purpose of notice, the names and addresses shown by the county property tax records shall be used to determine the current property owners. This subsection shall not apply if all property owners of a proposed landmark or of property within a proposed landmark district petitioned for the landmark or landmark district designation.
- (5) A record of all pertinent information, evidence, testimony, and objections shall be made for each proposed landmark and landmark district and shall be maintained by the Historic Preservation Commission and the City as a permanent public record.
- (6) Proposed landmarks shall not be approved if the property owners explicitly object to the designation. Proposed landmark districts shall not be approved if the property owners of fifty-one percent (51%) or more of the front footage of the parcels to be included within the proposed district explicitly object to the designation.
- (7) Approved proposals and petitions shall be submitted to the City Council for final approval and designation. The City Council shall take into consideration the record created by the Historic Preservation Commission pursuant to subsection (5) and may hold a public hearing if deemed necessary. If a public hearing is held, notice shall be given in the same manner as prescribed in subsection (4). Designations shall be made by ordinance or resolution.
- (8) Within seven days after enactment of an ordinance or adoption of a resolution designating property as a landmark or a set of properties as a landmark district, the City shall send a copy of such ordinance or resolution and a letter outlining the basis of such designation and the obligations and restrictions that result from such designation to the current property owners of the landmark or of property within the landmark district.

Section 10. That a new Chapter 2, Article 18, Section 2-1809 of the Crete Municipal Code shall be enacted to read as follows:

2-1809 Landmarks and landmark districts; zoning overlay district.

Designation as a landmark or landmark district shall constitute a zoning overlay district and shall be included as such on all official land use or zoning maps. This Landmark Overlay District shall be in addition to the existing underlying principal zoning district and any other overlay districts that may apply. Zoning regulations may be enacted that apply solely to Landmark Overlay Districts.

Section 11. That a new Chapter 2, Article 18, Section 2-1810 of the Crete Municipal Code shall be enacted to read as follows:

2-1810 Landmarks and landmark districts; actions subject to review; certificate of appropriateness; procedure.

- (1) No person shall carry out or cause to be carried out any action, for which a building or demolition permit is required by the City, on a landmark or property within a landmark district unless a certificate of appropriateness has been issued. All such actions shall be subject to the controls, standards, and procedures set forth in this section.

- (a) For the purposes of this section, action includes, but is not limited to, (i) any act or process that changes, obstructs, or is incompatible with the historic character of a landmark or property within a landmark district; (ii) changes to one or more of the significant historical features of any landmark or property within a landmark district; (iii) demolition or partial demolition of a landmark or property within a landmark district; (iv) changes to noncontributing properties within a landmark district; (v) the construction of new structures within a landmark district; or (vi) additions to existing structures.
- (2) Prior to the commencement of any work requiring a certificate of appropriateness, the property owner shall file an application for such a certificate with the City in the form and manner prescribed by the City Administrator. All applications shall be reviewed by the City for completeness before being forwarded to the Historic Preservation Commission for action.
 - (a) All plans, projects, proposals, evaluations, specifications, sketches, and other information required by the application shall be made available to the Commission by the property owner or the City, along with a copy of the applications for a building or demolition permit and certificate of zoning compliance.
- (3) The Historic Preservation Commission shall review every request for a certificate of appropriateness at a public meeting and may hold a public hearing if deemed necessary. Notice of the public meeting and any associated public hearing shall be mailed to the property owner not less than ten days prior to the date of the meeting.
- (4) The Historic Preservation Commission shall apply the following criteria when evaluating a request for a certificate of appropriateness:
 - (a) Actions taken on a landmark shall be compatible with its historic character and meet the Secretary of the Interior's *Standards for Rehabilitation* and such other landmark design guidelines as may have been adopted.
 - (b) Actions taken on property within a landmark district shall be compatible with the historic character of the district and meet the Secretary of the Interior's *Standards for Rehabilitation* and such other district design guidelines as may have been adopted.
 - (c) New construction in a landmark district shall be compatible with all city design standards and any additional zoning regulations that apply to Landmark Overlay Districts.
- (5) The Historic Preservation Commission may approve, approve with modifications, or deny an application for a certificate of appropriateness. In considering the appropriateness of any actions and whether any modifications shall be required, the Commission shall consider the following items:
 - (a) The purposes of this Act, any state laws relating to historic preservation, and the National Historic Preservation Act of 1966;
 - (b) The historic and architectural value and the significance of the landmark or properties within the landmark district;
 - (c) The integrity of design, location, setting, feeling, association, materials, or workmanship of the property and its accessory structures;
 - (d) Any alterations, additions, or new construction, including accessory structures, to the property;

- (e) The relationship of the property's historic features to similar features of other properties within the neighborhood or landmark district; and
- (f) The relationship of the property to the public streets and rights-of-way.
- (6) The Historic Preservation Commission shall, after applying the criteria specified in subsection (4) and considering the items listed in subsection (5), take one of the following actions:
 - (a) If the proposed actions meet the criteria specified in subsection (4) and are determined to be appropriate under subsection (5), the Commission shall issue a certificate of appropriateness.
 - (b) If certain modifications or conditions are required by the Commission in order for the proposed actions to meet the criteria specified in subsection (4) or be appropriate under subsection (5) and the property owner agrees to such modifications or conditions, the Commission shall issue a certificate of appropriateness with modifications.
 - (c) If the proposed actions cannot meet the criteria specified in subsection (4) or are not appropriate under subsection (5) or if the property owner does not agree to any required modifications or conditions, the Commission shall deny a certificate of appropriateness.
- (7) The decision of the Historic Preservation Commission to issue or deny a certificate of appropriateness shall be accompanied by written findings of fact, which shall become part of the permanent record specified in Section 2-1807(5).
- (8) The Historic Preservation Commission shall provide a copy of the decision to issue or deny a certificate of appropriateness, the written findings of fact, and a detailed description of any required modifications or conditions to the Building Inspector within five days after the decision is made. The Building Inspector shall not permit any actions to be taken on the property unless a certificate of appropriateness, and any modifications or conditions associated therewith, has been issued for such actions. No changes shall be made in the property owner's application for a building or demolition permit after a certificate of appropriateness has been issued unless the changes have been resubmitted to the Commission and approved in the same manner as provided herein.

Section 12. That a new Chapter 2, Article 18, Section 2-1811 of the Crete Municipal Code shall be enacted to read as follows:

2-1811 Landmarks and landmark districts; unsafe structure; deliberate acts or neglect unlawful.

- (1) The Historic Preservation Commission shall issue a certificate of appropriateness for the demolition of a landmark or a structure within a landmark district if the Building Inspector determined the structure is an unsafe structure, an administrative hearing was held, and the hearing officer ordered demolition of the structure. In such case, the Commission may forgo the procedures specified in Section 2-1809.
- (2) It shall be unlawful for a property owner to, by deliberate acts or deliberate neglect, allow a landmark or a structure within a landmark district to become an unsafe structure with the intent of avoiding the requirements of this Act.

Section 13. That a new Chapter 2, Article 18, Section 2-1812 of the Crete Municipal Code shall be enacted to read as follows:

2-1812 Landmarks and landmark districts; economic impact.

The Historic Preservation Commission shall, in the administration and enforcement of the provisions of this Act, take into account all economic factors presented to it and shall strive to fairly balance historic preservation objectives with potential economic detriments.

Section 14. That a new Chapter 2, Article 18, Section 2-1813 of the Crete Municipal Code shall be enacted to read as follows:

2-1813 Landmarks and landmark districts; application to public property.

Unless otherwise exempted, all property owned by the City or other public entity shall be subject to the provisions of this Act. All visible modifications or additions to public areas near a landmark or within a landmark district, including street furniture, lighting fixtures, and paving materials shall be subject to review by the Historic Preservation Commission.

Section 15. That a new Chapter 2, Article 18, Section 2-1814 of the Crete Municipal Code shall be enacted to read as follows:

2-1814 Violation of act; penalty.

Any person who violates or fails to comply with any of the provisions of this Act shall be guilty of a Class III misdemeanor. Each day a violation or failure to comply occurs, or continues to occur, shall be considered a separate offense.

Section 16. That the changes specified in the above sections shall be codified as part of the Crete Municipal Code as stated herein.

Section 17. That all ordinances or parts of ordinances in conflict herewith shall be repealed and that any partial repeal shall not affect the other parts of ordinances or codified sections that can be given effect without the repealed parts.

Section 18. That if any section, part, or provision of this ordinance is for any reason held invalid, the invalidity thereof shall not affect the validity of any other section, part, or provision of this ordinance.

Section 19. That this ordinance shall be published in pamphlet or book form and shall take effect and be in full force and effect from and after its passage, approval, and publication, as provided by law.

PASSED AND ENACTED the 2nd day of August 2022.

Mayor

ATTEST:

City Clerk