

ORDINANCE NO. 2146

AN ORDINANCE OF THE CITY OF CRETE, NEBRASKA RELATING TO NONCONFORMING LOTS, STRUCTURES, AND USES; TO AMEND SECTION 11-205 OF THE CRETE MUNICIPAL CODE TO RESTRICT CHANGES IN NONCONFORMING USES, TO PROVIDE DEFINITIONS, AND TO HARMONIZE PROVISIONS.

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

Section 1. That Chapter 11, Article 2, Section 11-205 of the Crete Municipal Code shall be amended to read as follows:

11-205 Zoning; nonconforming lots, structures, and uses.

Zoning nonconformities are of three types: nonconforming lots of record, nonconforming structures, and nonconforming uses. Any lawful use of land or structure existing at the time of enactment or subsequent amendment of this article, but not in conformity with its provisions; Nonconformities may be continued subject to the following conditions:

- (1) Nonconforming Lots of Record. A nonconforming lot of record is a platted lot that, at the time of its creation, met the minimum lot size requirements for the zoning district in which it was located but, because of subsequent changes to the zoning regulations, does not comply with all of the current lot size requirements. The Zoning Administrator may issue a permit certificate of zoning compliance for the use of any nonconforming lot of record provided that:
 - (a) Said The lot is shown by a recorded valid plat or deed to have been owned separately and individually from adjoining tracts of land at a time that was recorded when the creation of a lot of such its size and width at such location would not have been prohibited permitted;
 - (b) Said The lot has continuously remained in separate and individual ownership from adjoining adjacent tracts of land continuously during throughout the entire time that the creation the size of such lot has not been permitted prohibited by the zoning regulation; and
 - (c) Said The use and occupancy of the lot can meet all required yard regulations for the district in which it is located.
- (2) Nonconforming Structures. A nonconforming structure is any building, structure, or part thereof that is dedicated to a lawful use and occupancy for the zoning district in which it is located but, because of subsequent changes to the zoning regulations, does not comply with all of the current yard, height, or other applicable regulations.
 - (a) Any nonconforming structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the use regulations or the applicable yard and height regulations that was lawfully constructed at a time when the construction of such structure would have been permitted may be continued so continue to exist as long as it remains otherwise lawful.
 - (b) Except as provided herein, Any nonconforming structures may shall not be improved, enlarged, maintained, repaired, remodeled, or rebuilt; provided, however, that no such enlargement. Only routine maintenance and repairs, minor interior remodeling, or historic restoration may be performed as long as such maintenance, repairing, or remodeling, or restoration shall does not create any additional nonconformity or increase the degree of existing nonconformity of all or

any part of such structure, ~~unless the property owner receives a special use permit in accordance with the zoning district in which it is located.~~

- (i) Nothing in these regulations shall be deemed to prevent the improving, repairing, or restoring of a building or structure in accordance with an order of a building inspector or other public official in charge of protecting the public safety.
 - (c) ~~In the event any nonconforming structure is damaged or destroyed, by any means, to the extent of:~~
 - (i) ~~If the cost to repair or rebuild will be more than fifty percent of its assessed fair market value, such structure shall not be restored repaired or rebuilt unless it shall thereafter conform to all of the applicable zoning regulations for the zoning district in which it is located.~~
 - (ii) ~~When a structure is damaged to the extent of~~ If the cost to repair or rebuild will be fifty percent or less of its assessed fair market value, no repairs or restoration rebuilding shall be made done unless a building permit is obtained within six months and restoration is actually begun within one year after the date of such partial destruction the damage and the work is diligently pursued to completion.
 - (d) ~~No~~ Nonconforming structures shall not be moved, in whole or in part, for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to all of the applicable zoning regulations of the zoning district in which it is located after being moved.
 - (e) If the use or occupancy of any nonconforming structure is discontinued or abandoned for a period of twelve consecutive months, such structure shall not thereafter be used or occupied until it is brought into compliance with all applicable zoning regulations.
 - (f) Nonconforming structures that are or become nuisances shall not be entitled to continue as nonconforming structures.
- (3) Nonconforming Uses. A nonconforming use is any use of part or all of a building, structure, or land that was allowed under the zoning regulations that existed at the time the use was established but, because of subsequent changes to the zoning regulations, is no longer a permitted use.
- (a) ~~Any lawfully existing nonconforming use of part or all of a building or structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, that lawfully existed prior to the enactment or amendment of the zoning regulations may be continued so as long as it remains otherwise lawful.~~
 - (b) ~~Normal maintenance and incidental repair or replacement, installation, or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring, or plumbing, water, or waste disposal systems may be performed on any structure or system that is devoted in whole or in part to a nonconforming use. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official in charge of protecting the public safety who declares such structure to be unsafe and orders its restoration to a safe condition.~~
 - (b) A nonconforming use shall not be extended, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to, the extension of such use to any building, structure, or land area, or parts thereof, other than that occupied by such nonconforming use on the effective date of these the zoning regulations or on the effective date of subsequent amendments hereto that cause such use to become nonconforming.
 - (c) Except as provided herein, No buildings, structures, and parcels of land that is devoted are dedicated, in whole or in part, to a nonconforming use shall not be improved, repaired, remodeled,

expanded, enlarged, or added to in any manner unless such buildings, structures, or parcels of land and the use thereof shall thereafter conform to the all applicable zoning regulations of the district in which it is located.

- (i) Normal, routine maintenance and incidental repairs may be performed on any building or structure that is dedicated, in whole or in part, to a nonconforming use.
 - (ii) The replacement, installation, or relocation of nonbearing walls, fixtures, or finishings may be performed within any part of a building or structure that is dedicated to a nonconforming use.
 - (iii) Nothing in these regulations shall be deemed to prevent the improving, repairing, or restoring of a building or structure in accordance with an order of a building inspector or other public official in charge of protecting the public safety.
- (d) In the event that a nonconforming use any building or structure, which is wholly or partly dedicated to a nonconforming use, is damaged or destroyed: to the extent of more than fifty percent of its reasonable replacement value, the property shall conform to the zone in which it is located.
 - (i) If the cost to repair or rebuild will be more than fifty percent of its assessed fair market value, such building or structure shall not be repaired or rebuilt unless the use of it shall thereafter fully conform to all of the applicable zoning regulations.
 - (ii) If the cost to repair or rebuild will be fifty percent or less of its assessed fair market value, no repairs or rebuilding shall be done unless a building permit is obtained within six months after the date of the damage and the work is diligently pursued to completion.
- (e) No structure that is devoted in whole or in part to a Nonconforming uses, or buildings or structures wholly or partly dedicated to nonconforming uses, and nonconforming use of land shall not be moved, in whole or in part, for any distance whatsoever, to any other location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.
- (f) ~~If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the governing body after receiving a recommendation from the Planning Commission, by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing nonconforming use. More appropriate shall mean creating less traffic, noise, glare, odor, or other characteristics of the proposed use. In permitting such change, the governing body may require appropriate conditions and safeguards to protect surrounding areas and properties. Once such use has changed, it may no longer be returned to the original use or any other less appropriate use.~~
- (f) When a If any nonconforming use is discontinued or abandoned for a period of twelve consecutive months, such use shall not thereafter be reestablished or resumed, and Any subsequent use or occupancy of such building, structure, or land shall comply with the all applicable zoning regulations of the zoning district in which such land is located. No use which that is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate is discontinued or abandoned.
- (g) ~~No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.~~
- (g) Nonconforming uses that are or become nuisances shall not be entitled to continue as nonconforming uses.

Section 2. That the changes specified in the above sections shall be codified as part of the Crete Municipal Code as stated herein.

Section 3. That all ordinances, parts of ordinances, or code provisions 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 4. 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 5. That this ordinance shall be published in pamphlet, book, or electronic 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 15th day of March 2022.

Mayor

ATTEST:

City Clerk