

Legislative and Economic Development Committee Meeting
Tuesday, January 18, 2022 5:00 PM
Crete City Hall
243 E 13th Street
Crete, NE 68333

1. Open Meeting

- In accordance with Nebraska law, a copy of the Open Meetings Act can be found in the back of the Council Chambers.
- Items listed on the agenda may be considered in any order.

2. Roll Call

- Attendance of members will be recorded to determine the presence of a quorum for official actions.

3. Items of Business

- The Committee may discuss or limit discussion on, hear testimony in favor of or in opposition to, or take action to provide a recommendation to the City Council on any matter presented under this title.
- 3.A. Provide a recommendation to the City Council on awarding projects for the second round of the Downtown Revitalization Program.
- 3.B. Provide a recommendation to the City Council on enacting Ordinance 2145: An ordinance relating to nuisances and city hearings.

4. Officers' Reports

- Reports may be given by the Mayor, Officers, Departments, or Councilmembers concerning the current operations of the City.
- No action can be taken on matters presented under this title except to answer any questions or to refer the matter for further action.

5. Adjournment

Disclaimers & Notices

- The Council may enter into closed session to discuss any matter on this agenda when it is determined that a closed session is clearly necessary for the protection of the public interest or the prevention of needless injury to the reputation of an individual (if such individual has not requested a public meeting) or as otherwise allowed by law. Any closed session shall be limited to the subject matter for which the closed session was called. If the motion to close passes, then immediately prior to the closed session the Mayor shall restate on the record the limitation of the subject matter of the closed session.
- The City of Crete assures that no person shall on the grounds of race, color, national origin, age, disability, handicap or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of the City receiving Federal financial assistance. To report discrimination, contact the City Clerk's office.
- The complete agenda with attachments is available at www.crete.ne.gov.

Applicant	Address	Recommended Award
Castaneda, Jaime	1229 Main Ave	\$ 22,000
Diaz, Angie	1202 Main Ave	\$ 15,000
Elle's on Main	1103 Main Ave	\$ 14,000
Havana Meats	1114 Main Ave	\$ 29,000
Kuntz, Justin	1331 Main Ave	\$ 9,000
Moser Project 1	1302 Main Ave	\$ 37,000
Moser Project 2	120 E. 13th St	\$ 10,000
Moser Project 3	1314/16 Main Ave	\$ 30,000
Moser Project 4	1318 Main Ave	\$ 11,000
Page, Janet	136 E. 13th St	\$ 7,000

TOTAL **\$ 184,000**



AGENDA ITEM COVER SHEET

City Council Meeting

Date Submitted: 01/18/2022

DATE: 01/17/2022 **SUBMITTED BY:** Kyle Manley, City Attorney

ITEM: Consider enacting Ordinance 2145: An ordinance relating to nuisances and city hearings.

SUMMARY: Ordinance 2145 changes a number of things regarding nuisances to streamline and simplify the process for law enforcement and code enforcement officers and creates a new process and procedures for providing city hearings.

A new Chapter 2, Article 10 will be created that provides a process for all hearings that may be held by the City regardless of subject matter. This will make a uniform process for all situations where the rights of a citizen are being affected by city action.

Nuisances will be divided into three separate categories based on the general type of nuisance and the amount of due process that should be given to each type:

- Chapter 4, Article 3 Health Nuisances
- Chapter 6, Article 2 Public Nuisances
- Chapter 9, Article 5 Nuisance Buildings and Structures

A draft of the proposed new Articles is attached.

ACTION REQUESTED: The Council is requested to enact Ordinance 2145.

ARTICLE 10
HEARINGS

Section

2-1001.	Hearings; definitions.
2-1002.	Hearings; general provisions.
2-1003.	Hearings; hearing officer.
2-1004.	Hearings; hearing board.
2-1005.	Hearings; hearing request; notice of hearing.
2-1006.	Hearings; prehearing conference; prehearing order.
2-1007.	Hearings; proceedings.
2-1008.	Hearings; evidence; official notice.
2-1009.	Hearings; orders; findings of fact; conclusions of law; notification.
2-1010.	Hearings; official record; retention; review.
2-1011.	Hearings; appeal.

2-1001 Hearings; definitions.

For the purposes of this Article, the following words and phrases shall have the following meanings unless the context otherwise requires:

- (1) "Hearing" means any administrative, quasi-judicial, judicial, due process, or other proceeding in which the legal rights, duties, or privileges of an individual are being determined.
- (2) "Hearing board" means the group or assembly of persons tasked with determining issues of fact.
- (3) "Hearing officer" means the person adjudicating a hearing, contested case, or other proceeding provided for by law, whether designated as the presiding officer, administrative law judge, or some other title designation.

Source:**2-1002 Hearings; general provisions.**

- (1) Except as otherwise prescribed by law, this Article shall apply to all hearings required or authorized by law to be held by the City.
- (2) The hearing process specified in this Article is independent of any concurrent or subsequent civil or criminal court action that the City may initiate.
- (3) Informal disposition of any proceedings may be made by stipulation, agreed settlement, consent order, or default.

Source:**2-1003 Hearings; hearing officer.**

The City Administrator shall serve as the hearing officer and shall preside over all prehearing conferences, hearings, and other proceedings. The hearing officer may prepare and promulgate rules of practice and procedure, not inconsistent with this Article, governing the formal and informal procedures of hearing requests, notices, prehearing conferences, hearings, and any other matters covered by this Article.

Source:

2-1004 Hearings; hearing board

The hearing board shall consist of the mayor and two councilmembers. The two councilmembers shall be selected by the hearing officer from city council standing committees that oversee subjects reasonably related to the subject matter of the case.

Source:

2-1005 Hearings; hearing request; notice of hearing.

- (1) If any person has the right to request a hearing, such request must be in writing, in the form and manner prescribed by the City, and must be filed within the time specified in the notice of adverse action. Copies of the request for hearing shall be provided to the hearing officer, hearing board, city attorney, and any other interested party.
 - (a) For purposes of this section, notice of adverse action means any notice, order, or other correspondence by the City that informs the recipient of violations of law, city license suspension or revocation, or any other actions taken by the City that affect or may affect the legal rights, duties, or privileges of the recipient.
- (2) The City shall provide written notices of hearing to all interested parties by personal or residential service, by first-class or certified mail conspicuously marked as to its importance, or by electronic communication. The notice shall be given a reasonable amount of time prior to the date of the hearing and shall state the time, place, and issues involved, but if, by reason of the nature of the proceeding, the issues cannot be fully stated in advance of the hearing or if subsequent amendment of the issues is necessary, they shall be fully stated as soon as practicable.

Source:

2-1006 Hearings; prehearing conference; prehearing order.

- (1) The hearing officer may determine that a prehearing conference should be conducted to deal with such matters as exploration of settlement possibilities, preparation of stipulations, clarification of issues, rulings on identity and limitation of the number of witnesses, objections to proffers of evidence, determination of the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form and the extent to which telephone, video conferencing, or other electronic means will be used as a substitute for proceedings in person, order of presentation of evidence and cross-examination, rulings regarding the issuance of subpoenas and discovery orders, and such other matters as will promote the orderly and prompt conduct of the hearing.
- (2) If the hearing officer determines a prehearing conference should be conducted, reasonable advanced written notice shall be given to all interested parties that includes:
 - (a) The names and mailing addresses of all parties and other persons to whom notice is being given;
 - (b) The names and titles of any counsel or employee of the city who will be attending the prehearing conference;
 - (c) The official case number or other reference number, the name of the proceeding, and a general description of the subject matter of the case;
 - (d) A statement of the time, place, and nature of the prehearing conference;
 - (e) A statement that a party who fails to attend or participate in a prehearing conference, hearing, or other stage of a proceeding or who fails to make a good faith effort to comply with a prehearing order may be held in default; and

- (f) Any other matters the hearing officer considers necessary or desirable to expedite the proceedings.
- (3) If a prehearing conference is held, the hearing officer shall issue a prehearing order incorporating the matters determined at the prehearing conference. If a prehearing conference is not held, the hearing officer may issue a prehearing order, based on the nature of the case, to regulate the conduct of the proceedings.
- (4) The hearing officer may conduct all or part of the prehearing conference by telephone, video conferencing, or other electronic means if each participant has an opportunity to participate in, to hear, and, if technically feasible, to see the entire conference while it is taking place.

Source:

2-1007 Hearings; proceedings.

- (1) All parties shall be afforded the opportunity to present evidence and argument with respect to the subject matter of the hearing. The order in which evidence and arguments are presented shall be determined by the hearing officer. Each party shall have the right to call witnesses and cross-examine those who testify and shall have the right to submit rebuttal evidence. The hearing officer may limit the testimony of any witness or the presentation of extraneous evidence.
- (2) All evidence, including reports and documents in the possession of the City of which it desires to avail itself, shall be offered and made a part of the record. No factual information or evidence other than the record shall be considered in the determination of the proceedings. Documentary evidence may be received in the form of copies or excerpts or may be incorporated by reference.
- (3) The hearing officer, at the request of any party or upon the hearing officer's own motion, may administer oaths, continue the hearing, and issue subpoenas and discovery orders in accordance with the rules of civil procedure except as may otherwise be prescribed by law. Subpoenas and orders issued under this subsection may be enforced by the district court.
- (4) After all evidence has been presented, each party shall be afforded the opportunity to present a final argument. The length of time allotted for final arguments shall be determined by the hearing officer after giving due consideration to the nature and duration of the hearing and the amount of time requested by each party.
- (5) At the conclusion of the hearing, the hearing board shall deliberate on and determine any issues of fact and the hearing officer shall determine any issues of law. Issues of fact arise when a material allegation is denied or is considered denied or avoided because the party does not respond.
- (6) The hearing officer shall render a final order based on the findings of fact and conclusions of law. The order may be given on the date of the hearing or within a reasonable amount of time after the conclusion.

Source:

2-1008 Hearings; evidence; official notice.

- (1) The hearing officer may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs and may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Hearings shall not be bound by the rules of evidence; however, the hearing officer shall give effect to the rules of privilege recognized by law.

- (2) The hearing officer and hearing board shall take official notice of the common law and the statutes of the State of Nebraska and the United States, the ordinances of the City of Crete, and any rules and regulations adopted and promulgated in accordance with federal, state, or local law. The hearing officer and hearing board may take official notice of cognizable facts and general, technical, or scientific facts within their specialized knowledge and may utilize their experience, technical competence, and specialized knowledge in the evaluation of all evidence presented to them.

Source:

2-1009 Hearings; orders; findings of fact; conclusions of law; notification.

- (1) Every decision and order adverse to a party to the hearing, rendered by the hearing officer, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law.
- (2) The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. The conclusions of law shall be sufficiently set out with the findings of fact to support the order entered.
- (3) Parties to the hearing shall be notified of the decision and order in person or by first-class mail. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed upon request to each party or their attorney of record.

Source:

2-1010 Hearings; official record; retention; review.

- (1) The City shall prepare and maintain an official record of each case, but it shall not be necessary to transcribe recordings or notes unless requested for the purpose of rehearing or appeal. The official record shall consist of:
- (a) Notices of all proceedings;
 - (b) Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the City pertaining to the proceedings;
 - (c) The record of the hearing, including all exhibits and evidence introduced during the hearing, a statement of matters officially noticed by the hearing officer and hearing board during the proceeding, and all proffers of proof and objections and rulings thereon; and
 - (d) The final order.
- (2) Except as otherwise provided by law, the physical custody of the official record shall be maintained by the City for at least four years following the date of the final order. The City shall permit the parties to inspect the official record and obtain copies of it at their expense.
- (3) Except as otherwise provided by law, the official record shall constitute the exclusive basis for city action and for judicial review thereof.

Source:

2-1011 Hearings; appeal.

Pursuant to Neb. Rev. Stat. § 25-1901 et seq., the final order made by the hearing officer may be reversed, vacated, or modified by the district court through the filing of a petition in error.

Source:

ARTICLE 3
HEALTH NUISANCES

Section

4-301.	Act, how cited.
4-302.	Terms, defined.
4-303.	Health nuisances; responsibility; general health nuisance.
4-304.	Health nuisances; animal enclosures.
4-305.	Health nuisances; contaminating waterways and drainways.
4-306.	Health nuisances; odorous emissions.
4-307.	Health nuisances; refuse.
4-308.	Health nuisances; rubbish.
4-309.	Health nuisances; sewage.
4-310.	Health nuisances; stagnant water.
4-311.	Health nuisances; notice and order to abate.
4-312.	Health nuisances; abatement by City; special assessment.
4-313.	Health nuisances; immediate threat; abatement by City; special assessment.

4-301 Act, how cited.

This Article shall be known and may be cited as the Health Nuisance Act.

Source:**4-302 Terms, defined.**

For the purposes of this Article, the following words and phrases shall have the following meanings unless the context otherwise requires:

- (1) "Animal enclosure" means any enclosure, structure, building, land, or premises, or parts thereof, that houses or is intended to house animals.
- (2) "Garbage receptacle" means any durable bin, can, or container that is designed to, or reasonably capable of, storing and transporting refuse and rubbish and that has a tight-fitting, secure cover or lid.
- (3) "Health nuisance" means any condition or thing, or any combination of conditions or things, that:
 - (a) Endangers or creates a risk to the health or safety of others;
 - (b) Is detrimental to or causes an unreasonable threat to the environment;
 - (c) Offends the senses;
 - (d) Provides harborage for mice, raccoons, rats, or other vermin; or
 - (e) Renders other persons insecure in life, health, or the safe use of property;
- (4) "Health officer" means any peace officer, code enforcement officer, community service officer, or other city employee authorized by law or by the City Administrator to enforce the Health Nuisance Act and any other health laws, rules, or regulations.
- (5) "Occupant" means any tenant, lessee, or person in possession, charge, or control of a lot, premises, or piece of ground.
- (6) "Odorous emission" means any objectionable odor that is reasonably offensive to the senses.

- (7) “Property” means any lot, premises, or piece of ground.
- (8) “Refuse” means any malodorous, putrescible, or repugnant grain, meat, beef, pork, fish, fowl, hides, skins, feathers, or vegetable matter; the whole carcass or any part of a dead animal; any ashes, blood, offal, or decayed matter; any solid household, market, and industrial wastes; any creosote, oils, fuels, or tars; or any other odious substance.
- (9) “Rubbish” means any non-putrescible solid waste material, excluding ashes, such as paper, rags, cardboard, yard clippings, tree limbs or branches, mattresses or other bedding material, and construction or demolition debris such as metal, plaster, lumber, glass, plastic, brick, crockery, stone, or cement.
- (10) “Sewage” means any greywater, blackwater, or other household, industrial, or agricultural wastewater.
- (11) “Sewer system” means all pipelines, conduits, pumping stations, force mains, and all other constructions, devices, appurtenances, and facilities used for collecting or directing wastewater to an ultimate point for treatment or disposal.
- (12) “Stagnant water” means non-flowing, motionless, or stale water that has remained in a location for more than two days.
- (13) “Treatment works” means any plant or other works used for the purpose of treating, stabilizing, or holding wastewater.

Source:

4-303 Health nuisances; responsibility; general health nuisance.

- (1) It shall be the responsibility of every owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep such property and the streets and alleys adjacent to such property free and clear of health nuisances.
- (2) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to create, allow, or maintain any conditions or things, or any combination thereof, that constitute a health nuisance upon such property or upon the streets or alleys adjacent to such property.

Source:

4-304 Health nuisances; animal enclosures.

- (1) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to allow any odorous emissions, offal, feathers, manure, or other animal waste materials to accumulate on or remain in any animal enclosure upon such property.
- (2) In addition to the abatement and removal of the health nuisance, the City may impound or otherwise take possession of any animals contained, or intended to be contained, within an animal enclosure that is deemed a health nuisance until such time as the health nuisance has been abated and removed. The owner or occupant of the property upon which the animal enclosure is located shall be responsible for the costs and fees associated with impounding and housing the animals.

Source:

4-305 Health nuisances; contaminating waterways and drainways.

- (1) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to put, deposit, accumulate, or maintain any refuse, rubbish, or sewage (a) into any river, creek, waterway, or drainway; (b) into any ditch, gutter, or stormwater system that may ultimately discharge said items, or any part thereof, into any such waters; or (c) onto any location where said items, or any part thereof, may be carried into any such waters by the actions of the elements or otherwise.
- (2) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to put, throw, or deposit any refuse or rubbish into any sewer system or treatment works.
- (3) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to corrupt or render unwholesome or impure any river, creek, waterway, or body of water.

Source:

4-306 Health nuisances; odorous emissions.

It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to cause or allow any odorous emissions to radiate into any adjacent property or into adjacent streets or alleys.

Source:

4-307 Health nuisances; refuse.

- (1) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to throw, deposit, accumulate, or maintain any refuse upon such property or upon the streets or alleys adjacent to such property.
- (2) Nothing in this section shall prohibit the temporary retention and storage of refuse within proper garbage receptacles that are located in a place and manner specified by the City.

Source:

4-308 Health nuisances; rubbish.

- (1) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to throw, deposit, accumulate, or maintain any rubbish upon such property or upon the streets or alleys adjacent to such property.
- (2) Nothing in this section shall prohibit the temporary retention and storage of rubbish within proper garbage receptacles that are located in a place and manner specified by the City.

Source:

4-309 Health nuisances; sewage.

It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to release, deposit, accumulate, or allow any sewage upon such property or upon the streets or alleys adjacent to such property.

Source:**4-310 Health nuisances; stagnant water.**

It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to create, accumulate, or maintain any stagnant water upon such property or upon the streets or alleys adjacent to such property.

Source:**4-311 Health nuisances; notice and order to abate.**

- (1) Health officers shall issue a written notice and order to abate and remove a health nuisance within twenty-four hours after learning of the existence of a health nuisance. Such notice and order shall be made by personal or residential service to any owner or occupant of the property upon which the health nuisance exists.
- (2) If personal service is unsuccessful, notice shall also be given by conspicuously posting the notice on the property upon which the health nuisance exists.
- (3) The notice and order to abate and remove a health nuisance shall include:
 - (a) The address or legal description of the property upon which the health nuisance exists;
 - (b) A full and detailed description of the health nuisance;
 - (c) The work that must be done to abate and remove the health nuisance;
 - (d) The length of the abatement period; and,
 - (e) Any other information required by the city attorney.

Source:**4-312 Health nuisances; abatement by City; special assessment.**

- (1) For health nuisances arising out of violations of sections 4-305, 4-306, 4-307, and 4-309, the owner or occupant shall have forty-eight hours after service to abate and remove the health nuisance.
- (2) For health nuisances arising out of violations of sections 4-303, 4-304, 4-308, and 4-310, the owner or occupant shall have five days after service to abate and remove the health nuisance.
- (3) If the owner or occupant fails to comply with the notice and order to abate and remove the health nuisance within the time period specified above, the City may have such work done.
- (4) The costs and expenses of any such work shall be paid by the owner of the property upon which the health nuisance exists. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Source:

4-313 Health nuisances; immediate threat; abatement by City; special assessment.

- (1) If the City Administrator determines a health nuisance upon any property constitutes or may constitute an immediate threat or hazard to public health and safety, the City shall abate and remove, or cause the abatement and removal, of said health nuisance within twenty-four hours after notice by personal service.
- (2) The costs and expenses of abating and removing the health nuisance shall be paid by the owner of the property upon which the health nuisance exists. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Source:

ARTICLE 2
PUBLIC NUISANCES

Section

- 6-201. Act, how cited.
- 6-202. Terms, defined.
- 6-203. Public nuisances; responsibility; general nuisance.
- 6-204. Public nuisances; abandoned vehicles.
- 6-205. Public nuisances; dead or diseased trees; low-hanging branches.
- 6-206. Public nuisances; furniture and household items.
- 6-207. Public nuisances; junk and vehicle parts.
- 6-208. Public nuisances; lawn sprinkling system.
- 6-209. Public nuisances; unlawfully parked vehicles.
- 6-210. Public nuisances; unregistered vehicles.
- 6-211. Public nuisances; weeds, grasses, and worthless vegetation.
- 6-212. Public nuisances; nuisance control officers.
- 6-213. Public nuisances; control officers; duties.
- 6-214. Public nuisances; notice and order to abate.
- 6-215. Public nuisances; hearing.
- 6-216. Public nuisances; abatement by City; special assessment.
- 6-217. Public nuisances; immediate threat; abatement by City; special assessment.

6-201 Act, how cited.

This Article shall be known and may be cited as the Public Nuisance Act.

Source:

6-202 Terms, defined.

For the purposes of this Article, the following words and phrases shall have the following meanings unless the context otherwise requires:

- (1) "Abatement period" means the prescribed time period within which the owner or occupant must abate and remove a public nuisance.
- (2) "General nuisance" means any condition or thing, or any combination of conditions or things, that:
 - (a) Creates a risk to the comfort, repose, or welfare of others;
 - (b) Offends decency;
 - (c) Unlawfully interferes with, obstructs, tends to obstruct, or renders dangerous for passage any stream, public park, parkway, square, street, or highway;
 - (d) Renders other persons insecure in the use of property;
 - (e) Materially interferes with the comfortable enjoyment of life and property; or,
 - (f) Tends to depreciate the value of the property of others.
- (3) "Junk" means (a) any old or scrap metal, rubber, or plastic or (b) any machine, appliance, furniture, or vehicle, or parts thereof, that have lost their identity, character, utility, or serviceability through deterioration, dismantling, or the ravages of time, that are inoperative or unable to perform their intended functions, or that are cast off, discarded, or thrown away or left as waste or wreckage.

- (4) “Occupant” means any tenant, lessee, or person in possession, charge, or control of a lot, premises, or piece of ground.
- (5) “Property” means any lot, premises, or piece of ground.
- (6) “Vehicle” means a motor vehicle, all-terrain vehicle, utility-type vehicle, minibike, trailer, or semitrailer.
- (7) “Vehicle parts” means any items, parts, or things which, in collection with others, constitute a vehicle.

Source:

6-203 Public nuisances; responsibility; general nuisance.

- (1) It shall be the responsibility of every owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep such property and the streets and alleys adjacent to such property free and clear of public nuisances.
- (2) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to create, allow, or maintain any conditions or things, or any combination thereof, that constitute a general nuisance upon such property or upon the streets or alleys adjacent to such property.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have five days after service to abate and remove the public nuisance.

Source:

6-204 Public nuisances; abandoned vehicles.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to allow, accumulate, or maintain any abandoned vehicles upon such property or upon the streets or alleys adjacent to such property.
- (2) For purposes of this section, abandoned vehicle means a vehicle as defined in Section 6-333.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have forty-eight hours after service to abate and remove the public nuisance.

Source:

6-205 Public nuisances; dead or diseased trees; low-hanging branches.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to permit, allow, or maintain any dead or diseased trees upon such property or upon the streets or alleys adjacent to such property.
- (2) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to permit, allow, or maintain any low-hanging branches in violation of Section 2-1513 upon such property or upon the streets or alleys adjacent to such property.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have ten days after service to abate and remove the public nuisance.

Source:

6-206 Public nuisances; furniture and household items.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to permit, allow, or maintain any furniture, household items, or discarded materials upon such property or the streets or alleys adjacent to such property for more than forty-eight hours.
- (2) For purposes of this section:
 - (a) “Discarded material” means any item or thing upon which or nearby is a placard, sign, or message offering the item to others.
 - (b) “Furniture” means any item or thing commonly used in a household as a seat, table, storage container, or platform.
 - (c) “Household items” means any items or things used within a household not otherwise described as furniture such as sports and fitness equipment, cooking tools, televisions, stereos, electronic devices, bicycles, and toys.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have forty-eight hours after service to abate and remove the public nuisance.

Source:

6-207 Public nuisances; junk and vehicle parts.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to put, deposit, accumulate, or maintain any junk or vehicle parts on such property or upon the streets or alleys adjacent to such property.
- (2) Nothing in this section shall prohibit the temporary retention and storage of junk or vehicle parts within proper garbage receptacles that are located in a place and manner specified by the City or at a licensed junk business or junk yard.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have ten days after service to abate and remove the public nuisance.

Source:

6-208 Public nuisances; lawn sprinkling system.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to allow any lawn sprinkling system to excessively overspray onto the sidewalks, streets, or alleys adjacent to such property.
- (2) For public nuisances arising out of violations of this section, the owner or occupant shall have ten days after service to abate and remove the public nuisance.

Source:

6-209 Public nuisances; unlawfully parked vehicles.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City to park, keep, or allow any vehicle to park upon such property except on lawful parking spaces as prescribed by the City's zoning regulations.
- (2) For public nuisances arising out of violations of this section, the owner or occupant shall have five days after service to abate and remove the public nuisance.

Source:**6-210 Public nuisances; unregistered vehicles.**

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to park, keep, or maintain any unregistered vehicles upon such property or upon the streets or alleys adjacent to such property.
- (2) For purposes of this section, unregistered vehicle means any vehicle not registered, in accordance with Nebraska law, more than thirty days after a transfer in ownership or after the expiration of the last registration period for which the vehicle was registered.
- (3) Nothing in this section shall prohibit the parking, keeping, or maintaining of unregistered vehicles within fully enclosed buildings or upon any commercially zoned property that is owned or occupied by a commercial enterprise operating in a lawful manner exclusively for the selling or repairing of vehicles.
- (4) For public nuisances arising out of violations of this section, the owner or occupant shall have ten days after service to abate and remove the public nuisance.

Source:**6-211 Public nuisances; weeds, grasses, and worthless vegetation.**

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep, accumulate, or maintain weeds, grasses, or worthless vegetation taller than twelve inches upon such property.
- (2) For purposes of this section:
 - (a) Weeds includes, but is not limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.) (tourn), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*); and
 - (b) Weeds, grasses, and worthless vegetation does not include vegetation applied or grown on property outside of the corporate limits of the City expressly for the purpose of weed or erosion control.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have five days after service to abate and remove the public nuisance.

Source:

6-212 Public nuisances; nuisance control officers.

- (1) Nuisance control officers shall include all peace officers, code enforcement officers, community service officers, building inspectors, and other city employees authorized by law or by the City Administrator to enforce any laws, rules, or regulations relating to nuisances.
- (2) The Police Department shall train all nuisance control officers in the standard law enforcement policies and procedures for police reporting and the issuance of warnings, notices, orders, and citations.

Source:**6-213 Public nuisances; control officers; duties.**

- (1) Nuisance control officers shall have the power and duty to enforce the Health Nuisance Act, the Public Nuisance Act, the Nuisance Building and Structure Act, and any other state or local law that relates to health nuisances, public nuisances, or nuisance buildings and structures or that declares conduct or any condition or thing to be a nuisance.
- (2) Nuisance control officers shall:
 - (a) Investigate any report or complaint about the existence of a public nuisance within forty-eight hours after receiving such report or complaint.
 - (b) Inspect all property within the corporate limits of the City and its extraterritorial jurisdiction to determine the existence of nuisances.
 - (c) Identify any violations of the Health Nuisance Act, the Public Nuisance Act, the Nuisance Building and Structure Act and any other state or local law that relates to nuisances.
 - (d) Issue notices and orders to abate and remove any nuisances pursuant to Section 6-214.
 - (e) Follow up on all notices and orders to abate and remove a nuisance within forty-eight hours after termination of the abatement period to determine whether the nuisance has been abated and removed.
 - (f) Provide any reports, pictures, information, or other evidence requested by the city attorney for hearings or the criminal prosecution of violations.
 - (g) Maintain all case records, including costs incurred, for the prescribed retention period before transferring such records to the city clerk for archiving or destruction.

Source:**6-214 Public nuisances; notice and order to abate.**

- (1) Nuisance control officers shall issue a written notice and order to abate and remove a public nuisance to each owner or occupant of the property upon which a public nuisance exists. Such notice and order may be made by personal service, residential service, or first-class or certified mail conspicuously marked as to its importance.
- (2) Notice may also be given by conspicuously posting the notice on the property upon which the public nuisance exists.
- (3) The notice and order to abate and remove a public nuisance shall include:
 - (a) The address or legal description of the property upon which the public nuisance exists;
 - (b) A full and detailed description of the public nuisance;

- (c) The work that must be done to abate and remove the public nuisance;
- (d) The length of the abatement period;
- (e) The right of the owner or occupant of the property to request a hearing before the termination of the abatement period; and
- (f) Any other information required by the city attorney.

Source:

6-215 Public nuisances; hearing.

Before the termination of the abatement period, the owner or occupant of the property may request a hearing to appeal the notice and order to abate and remove a public nuisance by filing a written request with the City. Such hearing request shall be in the form and manner specified by the City.

Source:

6-216 Public nuisances; abatement by City; special assessment.

- (1) If the appeal fails or if the owner or occupant does not request a hearing and fails to comply with the notice and order to abate and remove a public nuisance, the City may have such work done.
- (2) The costs and expenses of any such work shall be paid by the owner of the property upon which the public nuisance exists. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Source:

6-217 Public nuisances; immediate threat; abatement by City; special assessment.

- (1) If the City Administrator determines a public nuisance upon any property constitutes or may constitute an immediate threat or hazard to public health, safety, or welfare, the City shall abate and remove, or cause the abatement and removal, of said public nuisance within forty-eight hours after notice by personal service.
- (2) The costs and expenses of abating and removing the public nuisance shall be paid by the owner of the property upon which the public nuisance exists. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Source:

**ARTICLE 5
NUISANCE BUILDINGS AND STRUCTURES**

Section

- 9-501. Act, how cited.
- 9-502. Terms, defined.
- 9-503. Nuisance buildings; building or structure in right-of-way.
- 9-504. Nuisance buildings; dilapidated building.
- 9-505. Nuisance buildings; unsafe building.
- 9-506. Nuisance buildings; zoning violations.
- 9-507. Nuisance buildings; notice and order.
- 9-508. Nuisance buildings; hearings; recording.
- 9-509. Nuisance buildings; abatement by City; special assessment.
- 9-510. Nuisance buildings; immediate threat; abatement by City; special assessment.

9-501 Act, how cited.

This Article shall be known and may be cited as the Nuisance Building and Structure Act.

Source:

9-502 Terms, defined.

For the purposes of this Article, the following words and phrases shall have the following meanings unless the context otherwise requires:

- (1) “Dilapidated building” means any building or structure not in conformance with the Property Maintenance Code and that requires substantial remediation to conform to such Code.
- (2) “Occupant” means any tenant, lessee, or person in possession, charge, or control of a lot, premises, or piece of ground.
- (3) “Property” means any lot, premises, or piece of ground.
- (4) “Unsafe building” means any building, shed, fence, or other man-made structure that:
 - (a) Is dangerous to the public safety because of its condition;
 - (b) May aid in the spread of disease or cause injury to the health of its occupants or the occupants of neighboring buildings or structures;
 - (c) By reason of faulty construction, age, lack of proper repair or maintenance, or any other cause, constitutes or creates a fire hazard; or
 - (d) By reason of faulty construction, age, lack of proper repair or maintenance, or any other cause, is likely to cause injury or damage by the collapse or fall of all or any part of such building or structure.

Source:

9-503 Nuisance buildings; building or structure in right-of-way.

It shall be unlawful and a nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep, allow, or maintain any building or structure in the streets or alleys adjacent to such property.

Source:

9-504 Nuisance buildings; dilapidated building.

It shall be unlawful and a nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep, allow, or maintain any dilapidated building upon such property.

Source:

9-505 Nuisance buildings; unsafe building.

- (1) It shall be unlawful and a nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep, allow, or maintain any unsafe building upon such property.
- (2) It shall be unlawful for the owner or occupant of any unsafe building to use or occupy such building or structure, or permit it to be used or occupied, while it is in an unsafe condition.

Source:

9-506 Nuisance buildings; zoning violations.

It shall be unlawful and a nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep, allow, or maintain any building or structure that violates the City's zoning regulations.

Source:

9-507 Nuisance buildings; notice and order; recording.

- (1) If any building or structure is determined to be a nuisance, the building inspector or city attorney shall issue a written notice and order to the owner and occupant of the property upon which the nuisance exists. Such notice and order may be made by personal service, residential service, or first-class or certified mail conspicuously marked as to its importance.
- (2) The notice and order shall include:
 - (a) The address or legal description of the property upon which the nuisance exists;
 - (b) A full and detailed description of the conditions or violations that must be repaired, remedied, or removed;
 - (c) The work that must be done to bring the building or structure into compliance with the applicable building codes or zoning regulations;
 - (d) The length of time the owner or occupant has to complete such work;
 - (e) The hearing rights of the owner and occupant; and
 - (f) Any other information required by the city attorney.
- (3) If, at any time, a building or structure is deemed unsafe or unfit for human occupancy because of one or more violations of the City's minimum standard housing regulations, if any, or is deemed unsafe because of one or more violations of the City's building codes, notice shall be posted on the property and a copy of the determination shall be filed in the office of the Saline County Register of Deeds to be recorded and indexed against the property.

Source:

9-508 Nuisance buildings; hearing.

- (1) Upon receiving the notice and order, the owner or occupant of the property may request a hearing to present evidence and argument rebutting the determination that the condition or status of the building or structure is dilapidated or unsafe or that it violates the City's building codes or zoning regulations. Such a hearing request shall be in writing and in the form and manner specified by the City.
- (2) If the owner or occupant does not request a hearing and fails to comply with the notice and order, the City shall schedule a hearing and provide written notice thereof to the owner and occupant of the property.

Source:

9-509 Nuisance buildings; abatement by City; special assessment.

- (1) If, after the hearing, the determination is upheld and the owner or occupant of the property fails, neglects, or refuses to comply with the final order that was issued, the City may have such work done.
- (2) The costs and expenses of any such work shall be paid by the owner of the property. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Source:

9-510 Nuisance buildings; immediate threat; abatement by City; special assessment.

- (1) If the building inspector and city administrator determine a building or structure upon any property constitutes or may constitute an immediate threat or hazard to public health, safety, or welfare and the owner or occupant fails to remedy the situation within a reasonable amount of time after notice by personal service, the City shall abate and remove, or cause the abatement and removal, of said threat or hazard.
- (2) The costs and expenses of abating and removing the threat or hazard shall be paid by the owner of the property. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Source:

ORDINANCE NO. 2145

AN ORDINANCE OF THE CITY OF CRETE, NEBRASKA RELATING TO NUISANCES AND CITY HEARINGS; TO AMEND, REPEAL, AND ENACT VARIOUS SECTIONS OF THE CRETE MUNICIPAL CODE; TO AMEND SECTIONS 2-501, 4-205, 4-206, 4-209, AND 4-211; TO REPEAL SECTION 4-212; TO CREATE A NEW CHAPTER 2, ARTICLE 10 TO REGULATE CITY HEARINGS; TO REPEAL ALL EXISTING SECTIONS OF CHAPTER 4, ARTICLE 3; TO ENACT NEW SECTIONS TO CHAPTER 4, ARTICLE 3 TO REGULATE HEALTH NUISANCES; TO CREATE A NEW CHAPTER 6, ARTICLE 2 TO REGULATE PUBLIC NUISANCES; TO REPEAL ALL EXISTING SECTIONS OF CHAPTER 9, ARTICLE 5; AND TO CREATE A NEW CHAPTER 9, ARTICLE 5 TO REGULATE NUISANCE BUILDINGS AND STRUCTURES.

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

Section I. That Chapter 2, Article 5, Section 2-501 of the Crete Municipal Code shall be amended to read as follows:

2-501 Board of Health.

- (1) ~~The Governing Body shall appoint~~ There is hereby established a Board of Health, which shall consist of five members; ~~The members of the Board shall include~~ the Mayor, who shall serve as ~~chairman~~ chairperson; the Police Chief, who shall serve as secretary and quarantine officer; a physician, who shall serve as the medical advisor; the President of the City Council; and one other member. The members of the Board shall serve, without compensation, a one year term of office unless reappointed, ~~and shall reorganize at~~ Such terms shall begin the ~~first~~ second city council meeting in ~~June~~ December of each year. No member of the Board shall hold more than one position on the Board of Health. ~~It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time.~~
- (2) The Board of Health shall be funded ~~by the Governing Body from time to time as needed~~ out of the General Fund. ~~A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall meet at such times as the Governing Body may designate. Special meetings may be held upon the call of the Chairman or any two members of the Board.~~ It shall be the duty of the Board to enact rules and regulations, which shall have the full force and effect of law, to safeguard the health of the residents of the ~~Municipality~~ City. ~~Included in the duties of The Board shall be~~ have the power and authority to enforce ~~the said rules and regulations and to provide fines and punishments for any violations thereof. It may regulate, suppress, and prevent the occurrence of nuisances and shall actively enforce all laws of the State of Nebraska and ordinances of the Municipality relating to matters of sanitation which affect the health and safety of the people. The Board shall regularly inspect such premises and businesses as the Governing Body may direct. All members of the Board shall be responsible for making such reports and performing such other duties as the Governing Body may, from time to time, designate.~~ No member of the Board of Health shall hold more than one Board of Health position.
- (3) The Board shall meet upon the call of the chairperson. A majority of the Board shall constitute a quorum for the purpose of doing business. The secretary shall keep full and correct minutes and records of all meetings and file the same with the City Clerk where they shall be available for public inspection

at any reasonable time. All members of the Board shall be responsible for making such reports and performing such other duties as the City Council may designate.

Section 2. That Chapter 2, Article 10, Section 2-1001 of the Crete Municipal Code shall be amended to read as follows:

2-1001 Repealed Hearings; definitions.

For the purposes of this Article, the following words and phrases shall have the following meanings unless the context otherwise requires:

- (1) “Hearing” means any administrative, quasi-judicial, judicial, due process, or other proceeding in which the legal rights, duties, or privileges of an individual are being determined.
- (2) “Hearing board” means the group or assembly of persons tasked with determining issues of fact.
- (3) “Hearing officer” means the person adjudicating a hearing, contested case, or other proceeding provided for by law, whether designated as the presiding officer, administrative law judge, or some other title designation.

Section 3. That a new Section 2-1002 shall be added to Chapter 2, Article 10 of the Crete Municipal Code to read as follows:

2-1002 Hearings; general provisions.

- (1) Except as otherwise prescribed by law, this Article shall apply to all hearings required or authorized by law to be held by the City.
- (2) The hearing process specified in this Article is independent of any concurrent or subsequent civil or criminal court action that the City may initiate.
- (3) Informal disposition of any proceedings may be made by stipulation, agreed settlement, consent order, or default.

Section 4. That a new Section 2-1003 shall be added to Chapter 2, Article 10 of the Crete Municipal Code to read as follows:

2-1003 Hearings; hearing officer.

The City Administrator shall serve as the hearing officer and shall preside over all prehearing conferences, hearings, and other proceedings. The hearing officer may prepare and promulgate rules of practice and procedure, not inconsistent with this Article, governing the formal and informal procedures of hearing requests, notices, prehearing conferences, hearings, and any other matters covered by this Article.

Section 5. That a new Section 2-1004 shall be added to Chapter 2, Article 10 of the Crete Municipal Code to read as follows:

2-1004 Hearings; hearing board

The hearing board shall consist of the mayor and two councilmembers. The two councilmembers shall be selected by the hearing officer from city council standing committees that oversee subjects reasonably related to the subject matter of the case.

Section 6. That a new Section 2-1005 shall be added to Chapter 2, Article 10 of the Crete Municipal Code to read as follows:

2-1005 Hearings; hearing request; notice of hearing.

- (1) If any person has the right to request a hearing, such request must be in writing, in the form and manner prescribed by the City, and must be filed within the time specified in the notice of adverse action. Copies of the request for hearing shall be provided to the hearing officer, hearing board, city attorney, and any other interested party.
 - (a) For purposes of this section, notice of adverse action means any notice, order, or other correspondence by the City that informs the recipient of violations of law, city license suspension or revocation, or any other actions taken by the City that affect or may affect the legal rights, duties, or privileges of the recipient.
- (2) The City shall provide written notices of hearing to all interested parties by personal or residential service, by first-class or certified mail conspicuously marked as to its importance, or by electronic communication. The notice shall be given a reasonable amount of time prior to the date of the hearing and shall state the time, place, and issues involved, but if, by reason of the nature of the proceeding, the issues cannot be fully stated in advance of the hearing or if subsequent amendment of the issues is necessary, they shall be fully stated as soon as practicable.

Section 7. That a new Section 2-1006 shall be added to Chapter 2, Article 10 of the Crete Municipal Code to read as follows:

2-1006 Hearings; prehearing conference; prehearing order.

- (1) The hearing officer may determine that a prehearing conference should be conducted to deal with such matters as exploration of settlement possibilities, preparation of stipulations, clarification of issues, rulings on identity and limitation of the number of witnesses, objections to proffers of evidence, determination of the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form and the extent to which telephone, video conferencing, or other electronic means will be used as a substitute for proceedings in person, order of presentation of evidence and cross-examination, rulings regarding the issuance of subpoenas and discovery orders, and such other matters as will promote the orderly and prompt conduct of the hearing.
- (2) If the hearing officer determines a prehearing conference should be conducted, reasonable advanced written notice shall be given to all interested parties that includes:
 - (a) The names and mailing addresses of all parties and other persons to whom notice is being given;
 - (b) The names and titles of any counsel or employee of the city who will be attending the prehearing conference;
 - (c) The official case number or other reference number, the name of the proceeding, and a general description of the subject matter of the case;
 - (d) A statement of the time, place, and nature of the prehearing conference;

- (e) A statement that a party who fails to attend or participate in a prehearing conference, hearing, or other stage of a proceeding or who fails to make a good faith effort to comply with a prehearing order may be held in default; and
 - (f) Any other matters the hearing officer considers necessary or desirable to expedite the proceedings.
- (3) If a prehearing conference is held, the hearing officer shall issue a prehearing order incorporating the matters determined at the prehearing conference. If a prehearing conference is not held, the hearing officer may issue a prehearing order, based on the nature of the case, to regulate the conduct of the proceedings.
 - (4) The hearing officer may conduct all or part of the prehearing conference by telephone, video conferencing, or other electronic means if each participant has an opportunity to participate in, to hear, and, if technically feasible, to see the entire conference while it is taking place.

Section 8. That a new Section 2-1007 shall be added to Chapter 2, Article 10 of the Crete Municipal Code to read as follows:

2-1007 Hearings; proceedings.

- (1) All parties shall be afforded the opportunity to present evidence and argument with respect to the subject matter of the hearing. The order in which evidence and arguments are presented shall be determined by the hearing officer. Each party shall have the right to call witnesses and cross-examine those who testify and shall have the right to submit rebuttal evidence. The hearing officer may limit the testimony of any witness or the presentation of extraneous evidence.
- (2) All evidence, including reports and documents in the possession of the City of which it desires to avail itself, shall be offered and made a part of the record. No factual information or evidence other than the record shall be considered in the determination of the proceedings. Documentary evidence may be received in the form of copies or excerpts or may be incorporated by reference.
- (3) The hearing officer, at the request of any party or upon the hearing officer's own motion, may administer oaths, continue the hearing, and issue subpoenas and discovery orders in accordance with the rules of civil procedure except as may otherwise be prescribed by law. Subpoenas and orders issued under this subsection may be enforced by the district court.
- (4) After all evidence has been presented, each party shall be afforded the opportunity to present a final argument. The length of time allotted for final arguments shall be determined by the hearing officer after giving due consideration to the nature and duration of the hearing and the amount of time requested by each party.
- (5) At the conclusion of the hearing, the hearing board shall deliberate on and determine any issues of fact and the hearing officer shall determine any issues of law. Issues of fact arise when a material allegation is denied or is considered denied or avoided because the party does not respond.
- (6) The hearing officer shall render a final order based on the findings of fact and conclusions of law. The order may be given on the date of the hearing or within a reasonable amount of time after the conclusion.

Section 9. That a new Section 2-1008 shall be added to Chapter 2, Article 10 of the Crete Municipal Code to read as follows:

2-1008 Hearings; evidence; official notice.

- (1) The hearing officer may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs and may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Hearings shall not be bound by the rules of evidence; however, the hearing officer shall give effect to the rules of privilege recognized by law.
- (2) The hearing officer and hearing board shall take official notice of the common law and the statutes of the State of Nebraska and the United States, the ordinances of the City of Crete, and any rules and regulations adopted and promulgated in accordance with federal, state, or local law. The hearing officer and hearing board may take official notice of cognizable facts and general, technical, or scientific facts within their specialized knowledge and may utilize their experience, technical competence, and specialized knowledge in the evaluation of all evidence presented to them.

Section 10. That a new Section 2-1009 shall be added to Chapter 2, Article 10 of the Crete Municipal Code to read as follows:

2-1009 Hearings; orders; findings of fact; conclusions of law; notification.

- (1) Every decision and order adverse to a party to the hearing, rendered by the hearing officer, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law.
- (2) The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. The conclusions of law shall be sufficiently set out with the findings of fact to support the order entered.
- (3) Parties to the hearing shall be notified of the decision and order in person or by first-class mail. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed upon request to each party or their attorney of record.

Section 11. That a new Section 2-1010 shall be added to Chapter 2, Article 10 of the Crete Municipal Code to read as follows:

2-1010 Hearings; official record; retention; review.

- (1) The City shall prepare and maintain an official record of each case, but it shall not be necessary to transcribe recordings or notes unless requested for the purpose of rehearing or appeal. The official record shall consist of:
 - (a) Notices of all proceedings;
 - (b) Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the City pertaining to the proceedings;
 - (c) The record of the hearing, including all exhibits and evidence introduced during the hearing, a statement of matters officially noticed by the hearing officer and hearing board during the proceeding, and all proffers of proof and objections and rulings thereon; and
 - (d) The final order.

- (2) Except as otherwise provided by law, the physical custody of the official record shall be maintained by the City for at least four years following the date of the final order. The City shall permit the parties to inspect the official record and obtain copies of it at their expense.
- (3) Except as otherwise provided by law, the official record shall constitute the exclusive basis for city action and for judicial review thereof.

Section 12. That a new Section 2-1011 shall be added to Chapter 2, Article 10 of the Crete Municipal Code to read as follows:

2-1011 Hearings; appeal.

Pursuant to Neb. Rev. Stat. § 25-1901 et seq., the final order made by the hearing officer may be reversed, vacated, or modified by the district court through the filing of a petition in error.

Section 13. That Chapter 4, Article 2, Section 4-205 of the Crete Municipal Code shall be amended to read as follows:

4-205 Garbage accumulation; health hazard.

The accumulation of, keeping, or disposing of any garbage, rubbish, or refuse within the ~~Municipal Limits~~ corporate limits of the City is hereby declared to be a health hazard. The accumulation, keeping, or disposal of such trash in any other manner than as provided by this Article is ~~declared to be~~ detrimental to the public health of the citizens of the Municipality and is hereby declared a health nuisance and ~~the accumulation of, keeping or disposal of garbage and refuse except as herein provided~~ shall be unlawful.

Section 14. That Chapter 4, Article 2, Section 4-206 of the Crete Municipal Code shall be amended to read as follows:

4-206 Garbage receptacles required; unlawful disposal.

- (1) It shall be unlawful for any person to keep in, on, or about any dwelling, building, or premises, or any other place in the ~~Municipality~~ City, decayed vegetable or animal substance, garbage, rubbish, or refuse matter of any kind that may be injurious to the public health or offensive to the residents of the ~~Municipality~~ City unless the same is kept in receptacles ~~not exceeding a thirty (30) gallon capacity~~ and as nearly airtight as may be practical.
- (2) It shall be unlawful to throw or sweep into the streets, alleys, parks, or other public grounds any dirt, paper, nails, pieces of glass, refuse, waste, or rubbish of any kind.
- (3) No person may permit garbage, rubbish, waste, or refuse to unreasonably collect upon their property, and all persons shall remove the same ~~from their property~~ within twenty-four hours after being notified to do so by the ~~City Municipal Police representing the Board of Health~~ City Municipal Police. Any person having garbage, rubbish, waste, or refuse that is subject to decay or fermentation within a short period of time shall be required to place the same in a ~~standard~~ proper garbage ~~can~~ receptacle with a tight cover or a durable plastic container that is securely tied at its opening. All persons shall have the contents of their garbage ~~receptacles or cans~~ containers removed at least once a week.

Section 15. That Chapter 4, Article 2, Section 4-209 of the Crete Municipal Code shall be amended to read as follows:

4-209 Composting organic materials

Except as of otherwise provided herein the composting of organic materials shall be permitted but shall be limited to plant residues only. Compost heaps shall not be permitted to smoke or emit odor. Compost heaps shall be kept in and surrounded by a woven wire fence or other suitable retaining material. Any compost heap which emits smoke or odor is declared a health nuisance, and upon service of notice from the City, the same shall be abated by the person maintaining said compost heap or if such person cannot be found, such notice shall be served upon the owner of the premises where such compost heap is located. Provided, Nothing herein shall authorize the composting of organic materials upon the city streets, alleys, and street rights-of-way ~~is prohibited~~.

Section 16. That Chapter 4, Article 2, Section 4-211 of the Crete Municipal Code shall be amended to read as follows:

4-211 Unlawful disposal of refuse

It shall be unlawful for any person to cause or ~~suffer~~ allow any offal, manure, rubbish, filth, ~~or any~~ refuse, animal or vegetable matter, or any foul or nauseous ~~liquors~~ liquids, oil, or gasoline to be discharged out of or flow from any premises owned or occupied by ~~him~~ them or to be left in, ~~or~~ thrown into, or deposited ~~or~~ upon any street, alley, avenue, public square, vacant lot, or other place in the City; ~~and~~ Any person so offending shall be ~~deemed~~ creating or maintaining a public health nuisance.

Section 17. That Chapter 4, Article 2, Section 4-212 of the Crete Municipal Code shall be repealed in full:

~~4-212 Garbage and refuse collection; public nuisance; prohibited.~~

- ~~(1) The collection of garbage or refuse upon any lot or land within the corporate limits of the City of Crete or within the zoning jurisdiction of the City of Crete, or upon the streets, roads, or alleys abutting said lot or land which constitutes a public nuisance is prohibited.~~
- ~~(2) The owner or owners duly authorized agent or tenant of said lot or land shall remove or cause to be removed all garbage and refuse from such lot or land and streets, roads, and alleys.~~
- ~~(3) The City, through its proper officers, shall remove or cause to be removed any collection of such garbage and refuse so found or existing upon failure of the owner or owners authorized agent or tenant, if any, of such lot or land to remove or cause to be removed such collection of garbage and refuse by complying with the provisions of this ordinance as hereinafter provided.~~
- ~~(4) Notice shall be given to such owner or owners duly authorized agent or tenant, if any, of such lot or land that the Mayor and Council intend to determine that said collection of garbage or refuse constitutes a public nuisance and set a date and time for hearing thereon. Upon hearing, if the Mayor and City Council determines such collection to be a public nuisance it shall by resolution declare and determine such collection of garbage and refuse a public nuisance and direct that notice shall be given to the owner or owners duly authorized agent or to the tenant, if any, of such determination. Such notice and a copy of the resolution as passed shall be served upon the owner or owners duly authorized agent or the tenant thereof, if any, by personal service or by certified mail. After providing such notice and service thereof, the City, through its proper officers shall remove the garbage or refuse or cause the same to be removed from said lot or land and streets, roads and alleys.~~
- ~~(5) If the Mayor or President of the Council in his absence of the City, declares in writing that the accumulation of such garbage or refuse upon any lot or land constitutes an immediate nuisance and hazard to public health and safety, the City, through its proper officers, upon order, shall remove the~~

~~garbage or refuse, or cause it to be removed from such lot or land within forty eight hours after notice by personal service or following receipt of certified letter by such owner or authorized agent or tenant, if any, if such garbage or refuse has not been removed.~~

- ~~(6) Upon removal by the City of the accumulation of garbage or refuse or causing it to be removed from any lot or land pursuant to this Section, the City shall after hearing and notice to the owner or authorized agent or tenant if any, assess the cost of removal against such lot or land.~~

Section 18. That all existing sections of Chapter 4, Article 3 of the Crete Municipal Code shall be repealed in full.

Section 19. That a new Section 4-301 shall be added to Chapter 4, Article 3 of the Crete Municipal Code to read as follows:

4-301 Act, how cited.

This Article shall be known and may be cited as the Health Nuisance Act.

Section 20. That a new Section 4-302 shall be added to Chapter 4, Article 3 of the Crete Municipal Code to read as follows:

4-302 Terms, defined.

For the purposes of this Article, the following words and phrases shall have the following meanings unless the context otherwise requires:

- (1) “Animal enclosure” means any enclosure, structure, building, land, or premises, or parts thereof, that houses or is intended to house animals.
- (2) “Garbage receptacle” means any durable bin, can, or container that is designed to, or reasonably capable of, storing and transporting refuse and rubbish and that has a tight-fitting, secure cover or lid.
- (3) “Health nuisance” means any condition or thing, or any combination of conditions or things, that:
 - (a) Endangers or creates a risk to the health or safety of others;
 - (b) Is detrimental to or causes an unreasonable threat to the environment;
 - (c) Offends the senses;
 - (d) Provides harborage for mice, raccoons, rats, or other vermin; or
 - (e) Renders other persons insecure in life, health, or the safe use of property;
- (4) “Health officer” means any peace officer, code enforcement officer, community service officer, or other city employee authorized by law or by the City Administrator to enforce the Health Nuisance Act and any other health laws, rules, or regulations.
- (5) “Occupant” means any tenant, lessee, or person in possession, charge, or control of a lot, premises, or piece of ground.
- (6) “Odorous emission” means any objectionable odor that is reasonably offensive to the senses.
- (7) “Property” means any lot, premises, or piece of ground.

- (8) “Refuse” means any malodorous, putrescible, or repugnant grain, meat, beef, pork, fish, fowl, hides, skins, feathers, or vegetable matter; the whole carcass or any part of a dead animal; any ashes, blood, offal, or decayed matter; any solid household, market, and industrial wastes; any creosote, oils, fuels, or tars; or any other odious substance.
- (9) “Rubbish” means any non-putrescible solid waste material, excluding ashes, such as paper, rags, cardboard, yard clippings, tree limbs or branches, mattresses or other bedding material, and construction or demolition debris such as metal, plaster, lumber, glass, plastic, brick, crockery, stone, or cement.
- (10) “Sewage” means any greywater, blackwater, or other household, industrial, or agricultural wastewater.
- (11) “Sewer system” means all pipelines, conduits, pumping stations, force mains, and all other constructions, devices, appurtenances, and facilities used for collecting or directing wastewater to an ultimate point for treatment or disposal.
- (12) “Stagnant water” means non-flowing, motionless, or stale water that has remained in a location for more than two days.
- (13) “Treatment works” means any plant or other works used for the purpose of treating, stabilizing, or holding wastewater.

Section 21. That a new Section 4-303 shall be added to Chapter 4, Article 3 of the Crete Municipal Code to read as follows:

4-303 Health nuisances; responsibility; general health nuisance.

- (1) It shall be the responsibility of every owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep such property and the streets and alleys adjacent to such property free and clear of health nuisances.
- (2) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to create, allow, or maintain any conditions or things, or any combination thereof, that constitute a health nuisance upon such property or upon the streets or alleys adjacent to such property.

Section 22. That a new Section 4-304 shall be added to Chapter 4, Article 3 of the Crete Municipal Code to read as follows:

4-304 Health nuisances; animal enclosures.

- (1) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to allow any odorous emissions, offal, feathers, manure, or other animal waste materials to accumulate on or remain in any animal enclosure upon such property.
- (2) In addition to the abatement and removal of the health nuisance, the City may impound or otherwise take possession of any animals contained, or intended to be contained, within an animal enclosure that is deemed a health nuisance until such time as the health nuisance has been abated and removed. The owner or occupant of the property upon which the animal enclosure is located shall be responsible for the costs and fees associated with impounding and housing the animals.

Section 23. That a new Section 4-305 shall be added to Chapter 4, Article 3 of the Crete Municipal Code to read as follows:

4-305 Health nuisances; contaminating waterways and drainways.

- (1) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to put, deposit, accumulate, or maintain any refuse, rubbish, or sewage (a) into any river, creek, waterway, or drainway; (b) into any ditch, gutter, or stormwater system that may ultimately discharge said items, or any part thereof, into any such waters; or (c) onto any location where said items, or any part thereof, may be carried into any such waters by the actions of the elements or otherwise.
- (2) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to put, throw, or deposit any refuse or rubbish into any sewer system or treatment works.
- (3) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to corrupt or render unwholesome or impure any river, creek, waterway, or body of water.

Section 24. That a new Section 4-306 shall be added to Chapter 4, Article 3 of the Crete Municipal Code to read as follows:

4-306 Health nuisances; odorous emissions.

It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to cause or allow any odorous emissions to radiate into any adjacent property or into adjacent streets or alleys.

Section 25. That a new Section 4-307 shall be added to Chapter 4, Article 3 of the Crete Municipal Code to read as follows:

4-307 Health nuisances; refuse.

- (1) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to throw, deposit, accumulate, or maintain any refuse upon such property or upon the streets or alleys adjacent to such property.
- (2) Nothing in this section shall prohibit the temporary retention and storage of refuse within proper garbage receptacles that are located in a place and manner specified by the City.

Section 26. That a new Section 4-308 shall be added to Chapter 4, Article 3 of the Crete Municipal Code to read as follows:

4-308 Health nuisances; rubbish.

- (1) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to throw, deposit, accumulate, or maintain any rubbish upon such property or upon the streets or alleys adjacent to such property.

(2) Nothing in this section shall prohibit the temporary retention and storage of rubbish within proper garbage receptacles that are located in a place and manner specified by the City.

Section 27. That a new Section 4-309 shall be added to Chapter 4, Article 3 of the Crete Municipal Code to read as follows:

4-309 Health nuisances; sewage.

It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to release, deposit, accumulate, or allow any sewage upon such property or upon the streets or alleys adjacent to such property.

Section 28. That a new Section 4-310 shall be added to Chapter 4, Article 3 of the Crete Municipal Code to read as follows:

4-310 Health nuisances; stagnant water.

It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to create, accumulate, or maintain any stagnant water upon such property or upon the streets or alleys adjacent to such property.

Section 29. That a new Section 4-311 shall be added to Chapter 4, Article 3 of the Crete Municipal Code to read as follows:

4-311 Health nuisances; notice and order to abate.

- (1) Health officers shall issue a written notice and order to abate and remove a health nuisance within twenty-four hours after learning of the existence of a health nuisance. Such notice and order shall be made by personal or residential service to any owner or occupant of the property upon which the health nuisance exists.
- (2) If personal service is unsuccessful, notice shall also be given by conspicuously posting the notice on the property upon which the health nuisance exists.
- (3) The notice and order to abate and remove a health nuisance shall include:
 - (a) The address or legal description of the property upon which the health nuisance exists;
 - (b) A full and detailed description of the health nuisance;
 - (c) The work that must be done to abate and remove the health nuisance;
 - (d) The length of the abatement period; and,
 - (e) Any other information required by the city attorney.

Section 30. That a new Section 4-312 shall be added to Chapter 4, Article 3 of the Crete Municipal Code to read as follows:

4-312 Health nuisances; abatement by City; special assessment.

- (1) For health nuisances arising out of violations of sections 4-305, 4-306, 4-307, and 4-309, the owner or occupant shall have forty-eight hours after service to abate and remove the health nuisance.

- (2) For health nuisances arising out of violations of sections 4-303, 4-304, 4-308, and 4-310, the owner or occupant shall have five days after service to abate and remove the health nuisance.
- (3) If the owner or occupant fails to comply with the notice and order to abate and remove the health nuisance within the time period specified above, the City may have such work done.
- (4) The costs and expenses of any such work shall be paid by the owner of the property upon which the health nuisance exists. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Section 31. That a new Section 4-313 shall be added to Chapter 4, Article 3 of the Crete Municipal Code to read as follows:

4-313 Health nuisances; immediate threat; abatement by City; special assessment.

- (1) If the City Administrator determines a health nuisance upon any property constitutes or may constitute an immediate threat or hazard to public health and safety, the City shall abate and remove, or cause the abatement and removal, of said health nuisance within twenty-four hours after notice by personal service.
- (2) The costs and expenses of abating and removing the health nuisance shall be paid by the owner of the property upon which the health nuisance exists. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Section 32. That a new Section 6-201 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-201 Act, how cited.

This Article shall be known and may be cited as the Public Nuisance Act.

Section 33. That a new Section 6-202 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-202 Terms, defined.

For the purposes of this Article, the following words and phrases shall have the following meanings unless the context otherwise requires:

- (1) “Abatement period” means the prescribed time period within which the owner or occupant must abate and remove a public nuisance.
- (2) “General nuisance” means any condition or thing, or any combination of conditions or things, that:
 - (a) Creates a risk to the comfort, repose, or welfare of others;
 - (b) Offends decency;
 - (c) Unlawfully interferes with, obstructs, tends to obstruct, or renders dangerous for passage any stream, public park, parkway, square, street, or highway;

- (d) Renders other persons insecure in the use of property;
 - (e) Materially interferes with the comfortable enjoyment of life and property; or,
 - (f) Tends to depreciate the value of the property of others.
- (3) “Junk” means (a) any old or scrap metal, rubber, or plastic or (b) any machine, appliance, furniture, or vehicle, or parts thereof, that have lost their identity, character, utility, or serviceability through deterioration, dismantling, or the ravages of time, that are inoperative or unable to perform their intended functions, or that are cast off, discarded, or thrown away or left as waste or wreckage.
 - (4) “Occupant” means any tenant, lessee, or person in possession, charge, or control of a lot, premises, or piece of ground.
 - (5) “Property” means any lot, premises, or piece of ground.
 - (6) “Vehicle” means a motor vehicle, all-terrain vehicle, utility-type vehicle, minibike, trailer, or semitrailer.
 - (7) “Vehicle parts” means any items, parts, or things which, in collection with others, constitute a vehicle.

Section 34. That a new Section 6-203 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-203 Public nuisances; responsibility; general nuisance.

- (1) It shall be the responsibility of every owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep such property and the streets and alleys adjacent to such property free and clear of public nuisances.
- (2) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to create, allow, or maintain any conditions or things, or any combination thereof, that constitute a general nuisance upon such property or upon the streets or alleys adjacent to such property.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have five days after service to abate and remove the public nuisance.

Section 35. That a new Section 6-204 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-204 Public nuisances; abandoned vehicles.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to allow, accumulate, or maintain any abandoned vehicles upon such property or upon the streets or alleys adjacent to such property.
- (2) For purposes of this section, abandoned vehicle means a vehicle as defined in Section 6-333.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have forty-eight hours after service to abate and remove the public nuisance.

Section 36. That a new Section 6-205 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-205 Public nuisances; dead or diseased trees; low-hanging branches.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to permit, allow, or maintain any dead or diseased trees upon such property or upon the streets or alleys adjacent to such property.
- (2) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to permit, allow, or maintain any low-hanging branches in violation of Section 2-1513 upon such property or upon the streets or alleys adjacent to such property.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have ten days after service to abate and remove the public nuisance.

Section 37. That a new Section 6-206 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-206 Public nuisances; furniture and household items.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to permit, allow, or maintain any furniture, household items, or discarded materials upon such property or the streets or alleys adjacent to such property for more than forty-eight hours.
- (2) For purposes of this section:
 - (a) “Discarded material” means any item or thing upon which or nearby is a placard, sign, or message offering the item to others.
 - (b) “Furniture” means any item or thing commonly used in a household as a seat, table, storage container, or platform.
 - (c) “Household items” means any items or things used within a household not otherwise described as furniture such as sports and fitness equipment, cooking tools, televisions, stereos, electronic devices, bicycles, and toys.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have forty-eight hours after service to abate and remove the public nuisance.

Section 38. That a new Section 6-207 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-207 Public nuisances; junk and vehicle parts.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to put, deposit, accumulate, or maintain any junk or vehicle parts on such property or upon the streets or alleys adjacent to such property.

- (2) Nothing in this section shall prohibit the temporary retention and storage of junk or vehicle parts within proper garbage receptacles that are located in a place and manner specified by the City or at a licensed junk business or junk yard.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have ten days after service to abate and remove the public nuisance.

Section 39. That a new Section 6-208 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-208 Public nuisances; lawn sprinkling system.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to allow any lawn sprinkling system to excessively overspray onto the sidewalks, streets, or alleys adjacent to such property.
- (2) For public nuisances arising out of violations of this section, the owner or occupant shall have ten days after service to abate and remove the public nuisance.

Section 40. That a new Section 6-209 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-209 Public nuisances; unlawfully parked vehicles.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City to park, keep, or allow any vehicle to park upon such property except on lawful parking spaces as prescribed by the City's zoning regulations.
- (2) For public nuisances arising out of violations of this section, the owner or occupant shall have five days after service to abate and remove the public nuisance.

Section 41. That a new Section 6-210 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-210 Public nuisances; unregistered vehicles.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to park, keep, or maintain any unregistered vehicles upon such property or upon the streets or alleys adjacent to such property.
- (2) For purposes of this section, unregistered vehicle means any vehicle not registered, in accordance with Nebraska law, more than thirty days after a transfer in ownership or after the expiration of the last registration period for which the vehicle was registered.
- (3) Nothing in this section shall prohibit the parking, keeping, or maintaining of unregistered vehicles within fully enclosed buildings or upon any commercially zoned property that is owned or occupied by a commercial enterprise operating in a lawful manner exclusively for the selling or repairing of vehicles.
- (4) For public nuisances arising out of violations of this section, the owner or occupant shall have ten days after service to abate and remove the public nuisance.

Section 42. That a new Section 6-211 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-211 Public nuisances; weeds, grasses, and worthless vegetation.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep, accumulate, or maintain weeds, grasses, or worthless vegetation taller than twelve inches upon such property.
- (2) For purposes of this section:
 - (a) Weeds includes, but is not limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus sp.*) (tourn), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*); and
 - (b) Weeds, grasses, and worthless vegetation does not include vegetation applied or grown on property outside of the corporate limits of the City expressly for the purpose of weed or erosion control.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have five days after service to abate and remove the public nuisance.

Section 43. That a new Section 6-212 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-212 Public nuisances; nuisance control officers.

- (1) Nuisance control officers shall include all peace officers, code enforcement officers, community service officers, building inspectors, and other city employees authorized by law or by the City Administrator to enforce any laws, rules, or regulations relating to nuisances.
- (2) The Police Department shall train all nuisance control officers in the standard law enforcement policies and procedures for police reporting and the issuance of warnings, notices, orders, and citations.

Section 44. That a new Section 6-213 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-213 Public nuisances; control officers; duties.

- (1) Nuisance control officers shall have the power and duty to enforce the Health Nuisance Act, the Public Nuisance Act, the Nuisance Building and Structure Act, and any other state or local law that relates to health nuisances, public nuisances, or nuisance buildings and structures or that declares conduct or any condition or thing to be a nuisance.
- (2) Nuisance control officers shall:
 - (a) Investigate any report or complaint about the existence of a public nuisance within forty-eight hours after receiving such report or complaint.

- (b) Inspect all property within the corporate limits of the City and its extraterritorial jurisdiction to determine the existence of nuisances.
- (c) Identify any violations of the Health Nuisance Act, the Public Nuisance Act, the Nuisance Building and Structure Act and any other state or local law that relates to nuisances.
- (d) Issue notices and orders to abate and remove any nuisances pursuant to Section 6-214.
- (e) Follow up on all notices and orders to abate and remove a nuisance within forty-eight hours after termination of the abatement period to determine whether the nuisance has been abated and removed.
- (f) Provide any reports, pictures, information, or other evidence requested by the city attorney for hearings or the criminal prosecution of violations.
- (g) Maintain all case records, including costs incurred, for the prescribed retention period before transferring such records to the city clerk for archiving or destruction.

Section 45. That a new Section 6-214 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-214 Public nuisances; notice and order to abate.

- (1) Nuisance control officers shall issue a written notice and order to abate and remove a public nuisance to each owner or occupant of the property upon which a public nuisance exists. Such notice and order may be made by personal service, residential service, or first-class or certified mail conspicuously marked as to its importance.
- (2) Notice may also be given by conspicuously posting the notice on the property upon which the public nuisance exists.
- (3) The notice and order to abate and remove a public nuisance shall include:
 - (a) The address or legal description of the property upon which the public nuisance exists;
 - (b) A full and detailed description of the public nuisance;
 - (c) The work that must be done to abate and remove the public nuisance;
 - (d) The length of the abatement period;
 - (e) The right of the owner or occupant of the property to request a hearing before the termination of the abatement period; and
 - (f) Any other information required by the city attorney.

Section 46. That a new Section 6-215 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-215 Public nuisances; hearing.

Before the termination of the abatement period, the owner or occupant of the property may request a hearing to appeal the notice and order to abate and remove a public nuisance by filing a written request with the City. Such hearing request shall be in the form and manner specified by the City.

Section 47. That a new Section 6-216 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-216 Public nuisances; abatement by City; special assessment.

- (1) If the appeal fails or if the owner or occupant does not request a hearing and fails to comply with the notice and order to abate and remove a public nuisance, the City may have such work done.
- (2) The costs and expenses of any such work shall be paid by the owner of the property upon which the public nuisance exists. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Section 48. That a new Section 6-217 shall be added to Chapter 6, Article 2 of the Crete Municipal Code to read as follows:

6-217 Public nuisances; immediate threat; abatement by City; special assessment.

- (1) If the City Administrator determines a public nuisance upon any property constitutes or may constitute an immediate threat or hazard to public health, safety, or welfare, the City shall abate and remove, or cause the abatement and removal, of said public nuisance within forty-eight hours after notice by personal service.
- (2) The costs and expenses of abating and removing the public nuisance shall be paid by the owner of the property upon which the public nuisance exists. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Section 49. That all existing sections of Chapter 9, Article 5 of the Crete Municipal Code shall be repealed in full.

Section 50. That a new Section 9-501 shall be added to Chapter 9, Article 5 of the Crete Municipal Code to read as follows:

9-501 Act, how cited.

This Article shall be known and may be cited as the Nuisance Building and Structure Act.

Section 51. That a new Section 9-502 shall be added to Chapter 9, Article 5 of the Crete Municipal Code to read as follows:

9-502 Terms, defined.

For the purposes of this Article, the following words and phrases shall have the following meanings unless the context otherwise requires:

- (1) “Dilapidated building” means any building or structure not in conformance with the Property Maintenance Code and that requires substantial remediation to conform to such Code.
- (2) “Occupant” means any tenant, lessee, or person in possession, charge, or control of a lot, premises, or piece of ground.
- (3) “Property” means any lot, premises, or piece of ground.

(4) “Unsafe building” means any building, shed, fence, or other man-made structure that:

- (a) Is dangerous to the public safety because of its condition;
- (b) May aid in the spread of disease or cause injury to the health of its occupants or the occupants of neighboring buildings or structures;
- (c) By reason of faulty construction, age, lack of proper repair or maintenance, or any other cause, constitutes or creates a fire hazard; or
- (d) By reason of faulty construction, age, lack of proper repair or maintenance, or any other cause, is likely to cause injury or damage by the collapse or fall of all or any part of such building or structure.

Section 52. That a new Section 9-503 shall be added to Chapter 9, Article 5 of the Crete Municipal Code to read as follows:

9-503 Nuisance buildings; building or structure in right-of-way.

It shall be unlawful and a nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep, allow, or maintain any building or structure in the streets or alleys adjacent to such property.

Section 53. That a new Section 9-504 shall be added to Chapter 9, Article 5 of the Crete Municipal Code to read as follows:

9-504 Nuisance buildings; dilapidated building.

It shall be unlawful and a nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep, allow, or maintain any dilapidated building upon such property.

Section 54. That a new Section 9-505 shall be added to Chapter 9, Article 5 of the Crete Municipal Code to read as follows:

9-505 Nuisance buildings; unsafe building.

- (1) It shall be unlawful and a nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep, allow, or maintain any unsafe building upon such property.
- (2) It shall be unlawful for the owner or occupant of any unsafe building to use or occupy such building or structure, or permit it to be used or occupied, while it is in an unsafe condition.

Section 55. That a new Section 9-506 shall be added to Chapter 9, Article 5 of the Crete Municipal Code to read as follows:

9-506 Nuisance buildings; zoning violations.

It shall be unlawful and a nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep, allow, or maintain any building or structure that violates the City’s zoning regulations.

Section 56. That a new Section 9-507 shall be added to Chapter 9, Article 5 of the Crete Municipal Code to read as follows:

9-507 Nuisance buildings; notice and order; recording.

- (1) If any building or structure is determined to be a nuisance, the building inspector or city attorney shall issue a written notice and order to the owner and occupant of the property upon which the nuisance exists. Such notice and order may be made by personal service, residential service, or first-class or certified mail conspicuously marked as to its importance.
- (2) The notice and order shall include:
 - (a) The address or legal description of the property upon which the nuisance exists;
 - (b) A full and detailed description of the conditions or violations that must be repaired, remedied, or removed;
 - (c) The work that must be done to bring the building or structure into compliance with the applicable building codes or zoning regulations;
 - (d) The length of time the owner or occupant has to complete such work;
 - (e) The hearing rights of the owner and occupant; and
 - (f) Any other information required by the city attorney.
- (3) If, at any time, a building or structure is deemed unsafe or unfit for human occupancy because of one or more violations of the City's minimum standard housing regulations, if any, or is deemed unsafe because of one or more violations of the City's building codes, notice shall be posted on the property and a copy of the determination shall be filed in the office of the Saline County Register of Deeds to be recorded and indexed against the property.

Section 57. That a new Section 9-508 shall be added to Chapter 9, Article 5 of the Crete Municipal Code to read as follows:

9-508 Nuisance buildings; hearing.

- (1) Upon receiving the notice and order, the owner or occupant of the property may request a hearing to present evidence and argument rebutting the determination that the condition or status of the building or structure is dilapidated or unsafe or that it violates the City's building codes or zoning regulations. Such a hearing request shall be in writing and in the form and manner specified by the City.
- (2) If the owner or occupant does not request a hearing and fails to comply with the notice and order, the City shall schedule a hearing and provide written notice thereof to the owner and occupant of the property.

Section 58. That a new Section 9-509 shall be added to Chapter 9, Article 5 of the Crete Municipal Code to read as follows:

9-509 Nuisance buildings; abatement by City; special assessment.

- (1) If, after the hearing, the determination is upheld and the owner or occupant of the property fails, neglects, or refuses to comply with the final order that was issued, the City may have such work done.

(2) The costs and expenses of any such work shall be paid by the owner of the property. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Section 59. That a new Section 9-510 shall be added to Chapter 9, Article 5 of the Crete Municipal Code to read as follows:

9-510 Nuisance buildings; immediate threat; abatement by City; special assessment.

(1) If the building inspector and city administrator determine a building or structure upon any property constitutes or may constitute an immediate threat or hazard to public health, safety, or welfare and the owner or occupant fails to remedy the situation within a reasonable amount of time after notice by personal service, the City shall abate and remove, or cause the abatement and removal, of said threat or hazard.

(2) The costs and expenses of abating and removing the threat or hazard shall be paid by the owner of the property. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Section 60. That the changes specified in the above sections shall be codified as part of the Crete Municipal Code as stated herein.

Section 61. 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 62. 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 63. 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 18th day of January 2022.

Mayor

ATTEST:

City Clerk