

Public Safety Committee Meeting
Tuesday, May 17, 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 adopting Resolution No. 2022-01: A resolution of the City of Crete, Nebraska accepting the duties and responsibilities related to the closing of Nebraska Highway 33 for the Saline County Fair Parade.
- 3.B. Provide a recommendation to the City Council on entering into the Interlocal Cooperation Agreement for the Saline County Rural Fire Protection Mutual Finance Organization for the 2022-2025 period.
- 3.C. Discuss municipal regulations of ATVs and UTVs.

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.

RESOLUTION NO. 2022-01

A RESOLUTION OF THE CITY OF CRETE, NEBRASKA ACCEPTING THE DUTIES AND RESPONSIBILITIES RELATED TO THE CLOSING OF NEBRASKA HIGHWAY 33 FOR THE SALINE COUNTY FAIR PARADE.

WHEREAS, the intersection of Quince Avenue and Nebraska Highway 33 is located within the official corporate limits of the City of Crete;

WHEREAS, the City of Crete requests a special event highway closure at said intersection on July 16, 2022 for the Saline County Fair Parade;

WHEREAS, Neb. Rev. Stat. § 39-1359 requires the City to accept and acknowledge certain legal duties related to full and partial closures of state highways for special events; and,

WHEREAS, the City Council agrees to fully accept all legal duties related to the partial closure of Nebraska Highway 33 for the Saline County Fair Parade.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CRETE, NEBRASKA:

Section 1. That the City of Crete shall accept the legal duty to protect the highway property from any damage that may occur arising out of the special event and acknowledges that the State of Nebraska shall not have any such duty during the time the City is in control of the property.

Section 2. That the City of Crete shall accept the existing statutory or common law duties of the State of Nebraska to protect the public from damage, injury, or death throughout the duration of the special event and acknowledges that the State of Nebraska shall not have such statutory or common law duties during the time the City is in control of the property.

Section 3. That the City of Crete shall indemnify, defend, and hold the State of Nebraska harmless from all claims, demands, actions, damages, and liability, including reasonable attorney's fees, that may arise as a result of the special event.

PASSED AND ADOPTED the 17th day of May 2022.

Mayor

ATTEST:

City Clerk



KALKWARF & SMITH

LAW OFFICES LLC

Farmers & Merchants Bank Bldg.
321 South Main, P.O. Box 905
Wilber, NE 68465-0905
Tel (402) 821-2001
Fax (402) 821-3368

BRADLEY T. KALKWARF
SHAYLENE M. SMITH

1240 Ivy Avenue
P.O. Box 272
Crete, NE 68333-0272
Tel (402) 826-5136
Fax (402) 826-5140

May 2, 2022

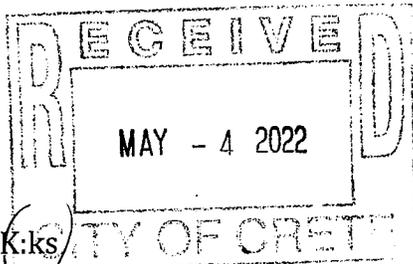
TO THE CLERKS:

Enclosed please find a copy of a draft version of the Interlocal Cooperation Agreement for the Saline County Rural Fire Protection Mutual Finance Organization for the 2022-2025 period. If you could please place this as an item for action at your next scheduled meeting, it would be appreciated. If approved, please contact Kay at the Wilber office, 402.821.2001 and we will get the original sent to you for signatures. When the original is returned, we will also need a copy of the minutes from your meeting showing approval.

Should you have any questions, please advise.

Very truly yours,

Bradley T. Kalkwarf



BTK:ks
Enclosure

INTERLOCAL COOPERATION AGREEMENT

THIS AGREEMENT is entered into this _____ day of _____, 2022 by and between the undersigned cities, villages and rural fire protection districts of the State of Nebraska (hereinafter referred to as "Participants"), which, by this agreement, create a mutual finance organization as authorized by the Nebraska Municipal Finance Assistance Act, Neb. Rev. Stat. 35-1201, et. Seq. (as amended).

WHEREAS, certain cities, villages and rural fire protection districts located in Saline County, Nebraska, desire to create a mutual finance organization as authorized by the Nebraska Municipal Finance Assistance Act, Neb. Rev. Stat. 35-1201, et. seq. (as amended).

NOW THEREFORE, BE IT AGREED BY THE UNDERSIGNED PARTICIPANTS AS FOLLOWS:

Section 1. That the Participants hereby create a mutual finance organization as authorized by the Nebraska Municipal Finance Assistance Act, Neb. Rev. Stat. 35-1201, et. seq. (as amended). This mutual finance organization shall be known as the Saline County Rural Fire Protection Mutual Finance Organization.

Section 2. The Mutual Finance Organization Board shall determine the property tax levy needed to jointly finance the undersigned fire districts, excluding any bonded indebtedness and lease purchase contracts which are in existence on July 1, 2022.

The Participants hereby agree pursuant to Neb. Rev. Stat. §35-1204(1) that the Mutual Finance Organization levy and agreed upon property tax rate of .01500 for the first year of this agreement. Further the Participants agree that no Participant shall levy a higher tax rate for the remaining tax years covered by this agreement.

Section 3. This agreement shall terminate on June 30, 2025, unless extended by the mutual agreement of all Participants.

Section 4. There is hereby established a joint board responsible for administration of this cooperative undertaking to be formally known as the Saline County Rural Fire Protection Mutual Finance Organization Board of Directors (hereinafter referred to as "the Board").

Section 5. The governing body of each Participant shall designate one representative to serve on the Board herein established. The governing body of each participant shall also appoint one person to serve as an alternate representative on the Board to serve temporarily for the representative as may be necessary in the event that the representative cannot serve. No prior notice need be given to the Board that the alternate representative will serve. The Board is authorized and directed to prepare and submit a timely application to the Nebraska Mutual Finance Assistance Fund for the maximum assistance available to the Saline County Rural Fire Protection Mutual Finance Organization for the years 2022-2023, 2023-2024 and 2024-2025. The Board is authorized to do all things necessary and proper to obtain such assistance, including

signing applications and receiving funds without further or additional authorization of the individual parties to this agreement. A majority vote of the members of this board is empowered to act for the joint and mutual benefits of the parties in such matters. Each member shall be entitled to one vote. The Board shall distribute all assistance funds to the participants as herein provided. It shall not acquire or hold any property other than public funds to be distributed to the participants hereunder.

Section 6. The Chairperson shall be the Chairperson of the Saline County Rural Fire Protection District and the Secretary shall be the Secretary of the Saline County Rural Fire Protection District. An annual meeting shall be held in conjunction with the annual meeting of the Saline County Rural Fire Protection District and notice shall be given to all participants with at least forty-eight (48) hours written notice to all members of the Board.

Section 7. The Mutual Finance Organization Board shall divide among the undersigned Fire Districts/Departments any funding it receives for operational and equipment needs of the Fire Districts. Any special payments received under the Nebraska Municipal Finance Assistance Act shall be paid directly to the Rural Fire District, City or Village that qualified for said payment, in accordance with the Act.

That funding shall then become the property of the respective Fire Districts/Departments. All real and personal property currently owned or acquired in the future by the respective Fire Districts/Departments shall remain their own separate property.

Section 8. This agreement shall supplement and not replace or modify the terms of any mutual assistance agreements or interlocal cooperation agreements among the parties or any of them in effect upon the date of this agreement.

Section 9. This agreement shall not be construed to have created a separate legal entity.

Section 10. Except as herein specifically provided otherwise, each Participant shall maintain its authority and indebtedness as a governmental subdivision.

DATED this _____ day of _____, 2019.

SALINE COUNTY RURAL FIRE
PROTECTION DISTRICT

Attest:

Gary Baxa, Secretary

BY: _____
Allen Papik, President

Attest:

FRIEND RURAL FIRE DISTRICT

Secretary

BY: _____
_____, President

Attest:

VILLAGE OF TOBIAS, NEBRASKA
A Municipal Corporation

Village Clerk

By: _____
Chairman
Date: _____

Attest:

VILLAGE OF SWANTON, NEBRASKA
A Municipal Corporation

Village Clerk

By: _____
Chairman
Date: _____

Attest:

VILLAGE OF DE WITT, NEBRASKA
A Municipal Corporation

Village Clerk

By: _____
Chairman
Date: _____

Attest:

VILLAGE OF WESTERN, NEBRASKA
A Municipal Corporation

Village Clerk

By: _____
Chairman
Date: _____

Attest:

VILLAGE OF DORCHESTER,
NEBRASKA
A Municipal Corporation

Village Clerk

By: _____
Chairman
Date: _____

Attest:

CITY OF FRIEND, NEBRASKA
A Municipal Corporation

City Clerk

By: _____
Mayor
Date: _____

Attest:

City Clerk

 **COPY**

CITY OF CRETE, NEBRASKA
A Municipal Corporation

By: _____

Mayor

Date: _____

 **COPY**

Attest:

City Clerk

CITY OF WILBER, NEBRASKA
A Municipal Corporation

By: _____

Mayor

Date: _____

DATE: May 13, 2022
TO: David Bauer, Mayor; Tom Ourada, City Administrator
FROM: Kyle Manley, City Attorney
RE: Municipal Comparison of ATVs and UTVs

State Law

All-terrain vehicles (ATVs) are defined as any motorized off-highway device that:

- (1) Is 50 inches or less in width,
- (2) Has a dry weight of 1,200 lbs. or less,
- (3) Travels on three or more nonhighway tires, and
- (4) Is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger.

Utility-type vehicles (UTVs) are defined as any motorized off-highway device that

- (1) Is 74 inches in width or less,
- (2) Is not more than 180 inches, including bumper, in length,
- (3) Has a dry weight of 2,000 lbs. or less, and
- (4) Travels on four or more nonhighway tires.

Highway means the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Neb. Rev. Stat. §§ 60-6,355 to 60-6,362 provide restrictions on the use of all-terrain vehicles and utility-type vehicles and specify the situations in which using such vehicles is permitted.

State Law Summary

The default rule is that all-terrain and utility-type vehicles are prohibited from being used on highways, streets, roads, or any other public rights-of way anywhere in the state.

Cities and villages are authorized to allow the operation of all-terrain and utility-type vehicles within their corporate limits subject to certain conditions:

- (1) The use of all-terrain and utility-type vehicles on controlled-access highways with more than two traffic lanes is always prohibited.
- (2) ATVs cannot cross controlled-access highways. UTVs can cross controlled-access highways, but only if the intersection is controlled by a traffic light and if the City has specifically authorized crossing at the particular intersection.
- (3) The vehicles can only be operated between the hours of sunrise and sunset.
- (4) There must be liability insurance coverage for the vehicle.

- (5) The vehicle cannot go above 30 mph.
- (6) The vehicle must have headlights and taillights that are on while operating it.
- (7) The vehicle must be equipped with a bicycle safety flag that extends at least 5 feet above the ground.
- (8) The vehicle must have an occupant protection system (safety belts).

Cities and villages can be more restrictive than this, but cannot be less restrictive, so all of the conditions above are required and will need to be policed.

For Crete, the restriction on the use of the vehicles on controlled-access highways with more than two traffic lanes could pose a problem. Highway 33 has three traffic lanes between Pine Ave and N Highway 103, so if it is considered a controlled-access highway:

- The City cannot allow ATVs and UTVs to be used on this stretch of Highway 33, including along Hawthorne and 13th where the two overlap.
- Only UTVs could cross this portion of Highway 33 and only at spots where there is a traffic light, which is only a few spots along 13th Street between Hawthorne and Main.

Municipal Comparison

No cities with populations of 20,000 or more allow the use of ATVs or UTVs. Only 4 cities with populations of 8,000 or more allow the use of ATVs and UTVs within their corporate limits: Scottsbluff, South Sioux City, Alliance, and Gering.

- All of these cities have further restrictions placed on the use of ATVs and UTVs, including size and type restrictions and requiring permitting/licensing.
- All of these cities require helmets to be worn.
- South Sioux City further limits the maximum speed to 25 mph.
- Gering only allows ATVs or UTVs to be used as part of a persons employment if the use is required in the normal course of their employment.

Of cities around Crete's size (approx. 6,500 to 8,000 population), Seward, Nebraska City, Crete, Schuyler, Plattsmouth, and Ralston allow ATVs with additional restrictions. Seward, Nebraska City, Schuyler, and Plattsmouth allow UTVs, but Crete and Ralston do not. York, Blair, and McCook do not allow either of them. The additional restrictions vary with each jurisdiction:

- Most further limit the size or type of ATVs or UTVs.
- Almost all require city permits to be issued.
- Some require helmets to be worn.
- Crete, Plattsmouth, and Ralston only allow ATVs to be used as part of agricultural operations.

	Size	ATVs		UTVs		Speed	Flag	Helmet	City Permit
Scottsbluff	14,436	Limited	Size & Type Restrictions	Limited	Size & Type Restrictions	30 mph	6 feet	Y	Y
South Sioux City	14,043	Limited	Size & Type Restrictions	Limited	Size & Type Restrictions	25 mph	5 feet	Y	Y
Beatrice	12,261								
Lexington	10,348								
Gering	8,564	Limited*	Size & Type Restrictions	Limited*	Size & Type Restrictions	30 mph	6 feet	Y	Y
Alliance	8,151	Limited	Type Restriction	Y		30 mph	5 feet	Y	Y
York	8,066								
Blair	7,790								
Seward	7,643	Y		Y		30 mph	5 feet	N	N
McCook	7,446								
Nebraska City	7,222	Limited	Type Restriction	Y		30 mph	5 feet	Y	Y
Crete	7,099	Limited**	Type Restriction	N		30 mph	5 feet	Y	Y
Schuyler	6,547	Limited	Type Restriction	Limited	Size Restriction	30 mph	5 feet	N	Y
Plattsmouth	6,544	Limited**	Size & Type Restrictions	Y		30 mph	5 feet	N	Y
Ralston	6,494	Limited**	Size & Type Restrictions	N		30 mph	5 feet	N	N