

CITY OF CRETE, NEBRASKA
CITY COUNCIL REGULAR MEETING
September 7, 2021

Notice of the meeting was given by posting and publishing in The Crete News, the appointed method for giving notice as shown by the Proof of Publication attached to the minutes. Advance notice of the meeting was also given to the Mayor and City Council. Pursuant to Section 84-1412(8) of the Nebraska Open Meetings Act, the City has posted a current copy of the Open Meetings Act, Laws of the State of Nebraska in the back of the Council Chambers. Additional copies are available to read. The City may consider items listed on the agenda in random order. All proceedings shown were taken while the meeting was open to the attendance of the public.

Those in attendance pledged allegiance to the flag.

1. Open Meeting
2. Roll Call
 - Kyle Frans: Present
 - Ryan Hinz: Present
 - Jack Oelschlager: Present
 - Present: 3.

3. Items of Business

- A. Provide a recommendation to the City Council on enacting Ordinance 2131: An ordinance creating a vacant and neglected property registration.

The Committee reviewed its previous recommendation on this ordinance and is still recommending to enact Ordinance 2131 to the full Council.

4. Officers' Reports
5. Adjournment

Mayor

(SEAL)

City Clerk-Treasurer

I, Jerry Wilcox, City Clerk for the City of Crete, hereby certify that the foregoing is a true and correct copy of the proceedings had and done by the Mayor and Council. I hereby certify that a copy of the Open Meetings Act was posted in the back of the Council Chambers. I certify that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk. I certify that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting and that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public. I certify that the minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of the City Council. I certify that all news media requesting notification

concerning meetings of the City Council were provided with advance notification of the time and place of said meeting and the subjects to be discussed.

City Clerk-Treasurer

(S E A L)

ORDINANCE NO. 2131

AN ORDINANCE OF THE CITY OF CRETE, NEBRASKA RELATING TO LAND USE AND PUBLIC NUISANCES; TO CREATE A NEW ARTICLE 9, CHAPTER 11 OF THE CRETE MUNICIPAL CODE; AND TO ENACT SECTIONS 11-901, 11-902, 11-903, 11-904, 11-905, 11-906, AND 11-907 TO IMPLEMENT VACANT, ABANDONED, AND NEGLECTED PROPERTY REGULATIONS.

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

Section 1. That a new Article 9 entitled “Vacant, Abandoned, and Neglected Property Regulations” shall be created within Chapter 11 of the Crete Municipal Code.

Section 2. That Chapter 11, Article 9 of the Crete Municipal Code shall be amended by adding a new section 11-901 to read as follows:

11-901 Regulations, how cited; supplemental; exceptions.

- (1) The provisions of this article shall be known and may be cited as the Vacant, Abandoned, and Neglected Property Regulations and shall be supplemental and in addition to any other laws of the State of Nebraska or the City of Crete.
- (2) This article shall not apply to property owned by the federal government, the State of Nebraska, or any political subdivision thereof.

Section 3. That Chapter 11, Article 9 of the Crete Municipal Code shall be amended by adding a new section 11-902 to read as follows:

11-902 Definitions.

For purposes of the Vacant, Abandoned, and Neglected Property Regulations, unless the context otherwise requires, the definitions found in Section 11-211 and those listed below shall apply:

- (1) “Abandoned building” means a vacant residential or commercial building the owner of which cannot be ascertained or is unresponsive to notices or other contact by the City.
- (2) “Commercial building” means a structure, building, or part of a structure or building designed or intended to be used for the operation of a lawful business engaging in a commercial enterprise.
- (3) “Commercial enterprise” means any business activity relating to or based upon the production, distribution, or consumption of goods or services.
- (4) “Evidence of vacancy” means any condition or circumstance that on its own or in combination with other conditions or circumstances would lead a reasonable person to believe that a structure, building, or dwelling is vacant. Such conditions or circumstances may include, but are not limited to:
 - (a) Overgrown or dead vegetation, including grass, shrubbery, weeds, and other plantings;
 - (b) An accumulation of abandoned personal property, trash, or other waste or items that constitute a nuisance;

- (c) Visible deterioration or lack of maintenance of any structure, building, or dwelling on the property;
 - (d) Graffiti or other defacement of any structure, building, or dwelling on the property; or,
 - (e) Any other condition or circumstance reasonably indicating that the property is unoccupied.
- (5) “Neglected building” means a structure, building, or dwelling wherein one or more of the following have occurred:
- (a) Within the last six months, the structure, building, or dwelling has been the subject of two or more notices of violation of the provisions found in Chapter 9 or Chapter 11 of the Crete Municipal Code;
 - (b) The structure, building, or dwelling has sustained fire, wind, water, or other damage caused by vandals, nature, or acts of God and no visible signs of consistent efforts to repair, rehabilitate, demolish, or remove the structure, building, or dwelling are evident within sixty days after the damage occurred; or,
 - (c) The structure, building, or dwelling has been declared a public nuisance or an unsafe structure.
- (6) “Owner” means the person or persons shown to be the owner or owners of record on the records of the register of deeds.
- (7) “Residential building” means a dwelling, house, condominium, townhouse, mobile home, or an apartment unit or building.
- (8) “Unoccupied” means the property, structure, building, or dwelling is not being used for a legal use or occupancy.
- (9) “Vacant” means that a residential or commercial building exhibits evidence of vacancy.

Section 4. That Chapter 11, Article 9 of the Crete Municipal Code shall be amended by adding a new section 11-903 to read as follows:

11-903 Vacant and neglected property registry; nuisance; exemption.

- (1) The City shall create and maintain a vacant, abandoned, and neglected property registration database. The database shall include, at a minimum:
 - (a) The name, street address, mailing address, telephone number, and, if applicable, the facsimile number and email address of the property owner and their agent;
 - (b) The street address, parcel identification number, and legal description of the property;
 - (c) The transfer date of the instrument conveying the property to the owner; and,
 - (d) The date on which the property became vacant, abandoned, or neglected.
- (2) Vacant, abandoned, and neglected buildings shall constitute a public nuisance and may be abated, repaired, rehabilitated, demolished, or removed pursuant to law.
- (3) Vacant property that is advertised in good faith for sale or lease shall be exempt from the registration and fee requirements found in this article.

- (a) Advertised in good faith means the property is actively and continually listed, published, or posted for a reasonable price with a real estate agent or multiple listing service, in a newspaper of general circulation in the city, or on an industry-recognized website.
- (b) The owner claiming an exemption under this subsection shall have the burden of proving that the property is advertised in good faith for sale or lease.

Section 5. That Chapter 11, Article 9 of the Crete Municipal Code shall be amended by adding a new section 11-904 to read as follows:

11-904 Program administrator; inspections; rules and regulations.

- (1) The City Administrator shall be the program administrator for the vacant, abandoned, and neglected property registration database and may delegate administrative duties and responsibilities to authorized agents or designees.
- (2) The City Administrator or their authorized agent or designee shall inspect the interior and exterior of the vacant property upon initial registration and at one-year intervals thereafter for so long as the property remains on the vacant, abandoned, and neglected property registration database.
- (3) The City Administrator may adopt and promulgate rules and regulations to administer and enforce the Vacant and Neglected Property Regulations.

Section 6. That Chapter 11, Article 9 of the Crete Municipal Code shall be amended by adding a new section 11-905 to read as follows:

11-905 Registration of property; procedure.

- (1) Owners of vacant, abandoned, or neglected property located within the city or its extraterritorial zoning jurisdiction shall be required to register such property with the City if the property has been vacant for one hundred eighty days or longer.
- (2) The program administrator or their authorized agent or designee shall provide the owner with written notice that the program administrator has determined the property is vacant, abandoned, or neglected.
 - (a) The notice shall be deemed delivered if properly served on the owner or their agent according to the established procedure for civil actions.
 - (b) If service cannot be made by personal service, residential service, certified mail service, or designated delivery service, then notice shall be given by publication in a newspaper of general circulation in the city or by conspicuously posting on the property, structure, building, or dwelling that is vacant, abandoned, or neglected. Any notice given by publication or posting shall be deemed delivered seven days after such publication or posting.
- (3) The owner or their agent must register the property or submit a written appeal of the program administrator's determination to the City within thirty days after delivery of the written notice. If the owner fails to timely register the property or submit a written appeal, the City shall automatically register the property, and the owner may be subject to additional administrative fines or fees.
 - (a) All requests for appeals shall be processed through the City's procedures for administrative hearings.

- (b) An administrative hearing shall be held in front of a hearing board, which shall consist of three members: the Mayor and two councilmembers from the City Council's Public Works or Public Safety Committees.
- (c) Notice of the date, time, and place of the hearing shall be provided to the owner at least ten days prior to the scheduled hearing.
- (4) Upon initial registration of the property, a copy of the notice shall be recorded in the records of the register of deeds of the county in which the property is located and indexed against the premises.
- (5) One hundred eighty days after the initial registration of the property or three hundred sixty days after the property is determined to be vacant, abandoned, or neglected, whichever is sooner, the owner or their agent must submit a plan for occupancy, repair, rehabilitation, or demolition of the property and pay the initial registration fee. Each one hundred eighty days thereafter, the owner or their agent must renew the registration, submit an updated plan, and pay supplemental registration fees.
- (6) Any subsequent owner or owners of any ownership interest in the property shall assume the obligations of the previous owner or owners and must register or update the registration of the property within thirty days of any transfer of ownership interest in the property.
- (7) Vacant, abandoned, or neglected property shall be removed from the registration database and no longer subject to the requirements of this article once the owner proves, by a preponderance of the evidence, that the property is no longer violating any building or zoning laws, rules, or regulations.

Section 7. That Chapter 11, Article 9 of the Crete Municipal Code shall be amended by adding a new section 11-906 to read as follows:

11-906 Registration fees; fines; enforcement; lien.

- (1) The initial registration fee shall be set forth in the City's Master Fee Schedule and shall not be more than two hundred fifty dollars for a residential building or more than one thousand dollars for a commercial building.
- (2) The supplemental registration fees shall be set forth in the City's Master Fee Schedule and shall not be more than double the previous fee amount, with a maximum supplemental registration fee of ten times the initial registration fee amount.
- (3) The City Council may impose administrative fines or fees for violations of this article. Such fines or fees shall be set forth in the City's Master Fee Schedule and shall be cumulative and in addition to the registration fees.
- (4) All fees and fines shall be paid at the time of registration and must be paid in full prior to the issuance of any city permits. The City may enforce the collection of vacant property registration fees and any associated administrative fines or fees by civil action in any court of competent jurisdiction.
- (5) Unpaid vacant property registration fees and unpaid administrative fines and fees shall become a lien on the applicable property upon the recording of a notice of such lien in the office of the register of deeds of the county in which the applicable property is located. Any lien created under this subsection shall be subordinate to all liens on the applicable property recorded prior to the time the notice of such lien under this subsection is recorded.

Section 8. That Chapter 11, Article 9 of the Crete Municipal Code shall be amended by adding a new section 11-907 to read as follows:

11-907 Violations, penalty.

- (1) It shall be unlawful for any person to interfere with, impair, or obstruct any government agents tasked with executing or enforcing this article and any rules and regulations promulgated hereunder; to fail to comply with lawful orders or duties imposed by this article or any rules and regulations promulgated hereunder; or to provide false, fictitious, or misleading information to the City regarding any property that may reasonably be subject to this article.
- (2) Any person who violates this section shall be guilty of a Class IV misdemeanor.

Section 9. That the changes specified in the above sections shall be codified as part of the Crete Municipal Code as stated herein.

Section 10. 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 11. That this ordinance shall be published in pamphlet or book form and shall take effect and be in full force and effect from and after its passage, approval, and publication, as provided by law.

PASSED AND ENACTED the 7th day of September 2021.

Mayor

ATTEST:

City Clerk