

Legislative and Economic Development Committee Meeting
Tuesday, July 21, 2020 4:30 PM
Crete Library/Community Center
1515 Forest Ave.

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.
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2. Roll Call

- Attendance of members will be recorded to determine the presence of a quorum for official actions.
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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.
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A. Discuss and provide a recommendation to the City Council on authorizing SENDD to apply for EDA, CDBG-DTR, and other federal grant opportunities on behalf of the City.

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B. Discuss and provide a recommendation to the City Council on enacting Ordinance 2110: An ordinance relating to sidewalk cafes.

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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.
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5. Adjournment

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- 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.

ORDINANCE NO. 2110

AN ORDINANCE OF THE CITY OF CRETE, NEBRASKA RELATING TO SIDEWALK CAFÉS; TO AMEND SECTIONS OF CHAPTER 8 OF THE CRETE CITY CODE TO ALLOW LIMITED OCCUPATION OF THE PUBLIC RIGHT-OF-WAY; AND TO ENACT A NEW SECTION TO CHAPTER 8, ARTICLE 2 TO REGULATE SIDEWALK CAFÉS.

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

Section 1. That Chapter 8, Article 1, Section 8-101 of the Crete City Code shall be amended as follows:

§8-101 DEFINITIONS.

The following definitions shall be applied throughout this Chapter. When no definition is specified, the normal dictionary usage of the word shall apply.

~~SIDEWALK SPACE. The term “sidewalk space,” as used herein, shall mean that portion of a street between curb lines and adjacent property lines.~~

- (1) “Public right-of-way” means all land between property lines that is dedicated to use by the general public.
- (2) “Sidewalk café” means that portion of the public right-of-way kept, used, maintained, and held out to the public as a place where food or drink is served for consumption on the premises or which is used directly in conjunction with a pedestrian pick-up window.
- (3) “Sidewalk right-of-way” or “sidewalk space” means that portion of the public right-of-way between the curb line and the adjacent property line.
- (4) “Street right-of-way” or “street space” means that portion of the public right-of-way between curb lines.

Section 2. That Chapter 8, Article 1, Section 8-103 of the Crete City Code shall be amended as follows:

§8-103 MUNICIPAL PROPERTY; OBSTRUCTIONS.

- (1) ~~Trees and shrubs, growing upon, or near, the lot line, or upon public ground and interfering with the use, or construction of any public improvements shall be deemed an obstruction under this Article. Said trees, shrubs and their roots may be removed by the Municipality at the expense of the owner of the property upon which the tree or shrub is located should the owner fail, or neglect, after notice, to do so. It shall be unlawful for any person, persons, firm, or corporation to obstruct, or encumber, by fences, gates, buildings, structures, or otherwise, any of the streets, alleys, or sidewalks-, except as expressly provided for by this code.~~
- (2) Trees and shrubs growing upon or near the property line or upon the public right-of-way and interfering with the use or construction of any public right-of-way or improvements shall be deemed an obstruction under this Article. Such trees and shrubs and their roots may be removed by the City at the expense of the owner of the property upon which the tree or shrub is located should the owner, after proper notice, fail or neglect to do so.

Section 3. That Chapter 8, Article 1, Section 8-106 of the Crete City Code shall be amended as follows:

§8-106 MUNICIPAL PROPERTY; AWNINGS IN SIDEWALK SPACE.

All awnings hereafter erected or suffered to remain in the sidewalk space shall be elevated at least seven (~~7~~) feet (7') at the lowest part from the top of the public sidewalk and shall not project over said sidewalk to exceed three-fourths (3/4) of the width thereof. Except as allowed by permit from the City, all awnings They shall be supported without posts by iron brackets or by any iron framework attached firmly to the building, so as to leave the sidewalk wholly unobstructed. ~~thereby; provided, nothing herein shall be construed to prevent the owner of any building from constructing a substantial awning or marquee of non-combustible material supported with or without posts over the sidewalk space if located flush with the outer edge thereof and if permission in writing shall have first been secured from the Mayor and Council.~~

Section 4. That Chapter 8, Article 2, Section 8-213 of the Crete City Code shall be amended as follows:

§8-213 SIDEWALKS; PERMITTED ENCROACHMENTS AND OBSTRUCTIONS; REQUIREMENTS; RENEWAL REMOVAL UPON REQUEST.

- (1) No encroachment and-or obstructions of any kind, except those of a temporary nature due to (loading or and unloading), are allowed upon any sidewalk located on any public right-of-way unless a permit for the encroachment and-or obstruction is applied for and granted by the City. Permits issued pursuant to this section are a unique, personal privilege and may not be transferred to another legal entity or location. Permit holders do not acquire any right, title, or interest in the space permitted to be used. Public works director, and the following requirements, at a minimum, are met, to wit:
1. Such encroachment and-or obstruction shall not pose a hazard to pedestrians or others using the sidewalk.
 2. Such encroachment and-or obstruction shall not hinder or interfere with the normal use of the sidewalk by pedestrians or others.
 3. No more that 30% of the sidewalk is obstructed at anyone time and the unobstructed area of the sidewalk is a minimum of six (6') feet (1.82 meters) wide, as measured from the curb, on sidewalks in any commercial zone and a minimum of four (4') feet (1.21 meters) wide, in any residential zone.
 4. Proof of liability insurance is provided, naming the City of Crete, Nebraska, as an additional insured, in an amount as set by the Public Works Director.
- (2) Except for sidewalk café permits, no sidewalk right-of-way permit shall be issued unless the following requirements are met:
- (a) Such encroachment or obstruction shall not pose a hazard to pedestrians or others using the sidewalk.
 - (b) Such encroachment or obstruction shall not hinder or interfere with the normal use of the sidewalk by pedestrians or others.
 - (c) No more than thirty percent (30%) of the sidewalk is obstructed at any one time and the unobstructed area of the sidewalk is, in any Commercial or Industrial District, at least six feet wide or, in any Residential District, at least four feet wide.
 - (d) Proof of liability insurance naming the City of Crete as an additional insured is provided under such terms and in such amounts as reasonably determined by the City.
 - (e) Any other special requirements as determined by the City that are reasonably related to special conditions of the property or to the specific use or design of the building, structure, or property.

- (3) All sidewalk right-of-way permits shall expire on the thirtieth day of September following issuance. Annual renewals of such permits may be made for one year by application to the City, and all permit fees shall be due and payable on the first day of October of each year.

Section 5. That Chapter 8, Article 2 of the Crete City Code shall be amended by adding a new section 8-214 to read as follows:

§8-214 SIDEWALKS; SIDEWALK CAFÉS.

- (1) The record owners of commercial or mixed use property abutting sidewalk right-of-way in areas zoned C-1 Central Commercial District may apply for and obtain a permit to use so much of the sidewalk right-of-way abutting their property as the City determines is not needed for the use of the general public for sidewalk cafés. Any record owner that desires to authorize another to occupy the sidewalk right-of-way shall file with the City a copy of the lease or other agreement covering the abutting property prior to the issuance of the permit. Permits issued pursuant to this section are a unique, personal privilege and may not be transferred to another legal entity or location. Permit holders do not acquire any right, title, or interest in the space permitted to be used.
- (2) Application for a sidewalk café permit shall be made to the City upon a form to be furnished by the City, which application shall include all of the information and any plans or drawings required by the City. Incomplete applications shall not be considered until all deficiencies are remedied to the satisfaction of the City.
- (3) The use of sidewalk right-of-way for a sidewalk café shall continually conform with the requirements of this section and any applicable standards imposed by ordinance, resolution, or order of the City Council, including, but not limited to:
- (a) A clear, unobstructed passageway not less than five feet in width shall be maintained between the sidewalk café area and the curb line, unless the City shall find special circumstances involving site characteristics or the flow of pedestrian traffic that requires a passageway greater than five feet.
- (b) Except for permit areas that are not intended for exclusive use, the permit area shall be separated from the pedestrian passageway with a fence or other rigid barrier that meets the specifications required by the City.
- (c) All umbrellas, canopies, or similar devices and all furnishings, including the number and type of tables and chairs to be provided, are subject to approval by the City and may not be modified or substituted.
- (d) The permit area shall be kept clean and free of any litter deposited on or in the vicinity of it and any fixtures or furniture contained therein shall be kept and maintained in good condition.
- (e) The permit holder shall conduct all activities within the permit area in an orderly fashion and in such a manner as to protect the public health and safety and shall comply with all health, sanitation, and building safety regulations.
- (4) All permit holders shall be required to obtain and maintain public liability insurance in the form of a commercial or comprehensive general liability policy naming the City as an additional insured under such terms and in such amounts as reasonably determined by the City.
- (5) Any person issued a sidewalk café permit shall pay to the City an annual permit fee in an amount determined by the City Council. All sidewalk café permits shall expire on the thirtieth day of September following issuance. Annual renewals of such permits may be made for one year by

application to the City, and all permit fees shall be due and payable on the first day of October of each year.

- (6) Any sidewalk café permit may be suspended or revoked by the City after due notice for any of the following causes:
- (a) Fraud, misrepresentation, or false statements contained in the permit application.
 - (b) Violation of any of the provisions of this section, the requirements imposed by the City, or any other local, state, or federal law.
 - (c) Conducting business in an unlawful manner or in such a way as to constitute a menace to the health or safety of the public.
 - (d) Upon demand of the City Council.

Section 6. That the above sections shall be codified as part of the Crete City Code as stated herein.

Section 7. That all ordinances or parts of ordinances in conflict herewith are hereby repealed and that any partial repeal shall not affect the other parts of ordinances that can be given effect without the repealed parts.

Section 8. 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 this 21st day of July 2020.

Mayor

ATTEST:

City Clerk