# City of Kramer Municipal Code

**Chapter 9 - Property Maintenance - Property Maintenance – Private and Public**

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**9. Be it ordained by the Kramer City Council of the city of Kramer, North Dakota** the city whenever it becomes necessary for the general welfare, public health, fire protection, and/or public safety shall order an owner or occupant of property within the jurisdiction of the City of Kramer to do specific property maintenance provided for by city, county and/or State ordinance. The City of Kramer’s shall enact its authority under NDCC 40-05-01.1. to define conditions that oppose the general welfare, public health, fire protection, and/or public safety. Furthermore, the City of Kramer shall define and set standards for property maintenance; define blighted and nuisance property, provide for public notice, and establish appropriate penalties for failure to comply.

**Section 1 - Definitions**

**9.1.** The following words, terms, and phrases, and their derivations, have the following meanings except where the context clearly indicates a different meaning:

* **Abandoned vehicle** means a motor vehicle, that has remained for a period of more than 48 hours on public property illegally or lacking parts that are essential to the mechanical functioning of the vehicle, including the motor, drive train, or wheels, or is located on private property without consent of the person in control of the property or in an inoperable condition such that it has no substantial potential further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.
* **Blighted structure** means any dwelling, mobile home, garage, or outbuilding, or any factory, shop, store, shed, warehouse, or any other structure or part of a structure that because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling or useful for the purpose for which it may have been used or intended.
* **Building materials** include lumber, bricks, concrete or cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure.
* **Council duty**means work completed by council members and included as part of established salary.
* **Junk** means parts of machinery or motor vehicles; scrap tires; unused furniture; major appliances, inoperable small-engine machines; and remnants of wood, metal, or any other castoff material of any kind, whether it could be put to any reasonable use.
* **Junk automobile** means any motor vehicle that is not licensed for use upon the highways of the State of North Dakota for a period in excess of 15 days, and includes, whether licensed or not, any motor vehicle that is inoperative for any reason for a period in excess of 15 days, except unlicensed but operative vehicles that are kept as the stock in trade of a regularly licensed and established new or used automobile dealer.
* **Mobile home**is a prefabricated structure, built in a factory on a permanently attached chassis before being transported to site (either by being towed or on a trailer), also referred to as house trailer, park home, trailer, or trailer home
* **Parts car** means a motor vehicle generally in non-operable condition which is owned by a collector to furnish parts to restore, preserve, and maintain a special interest vehicle or antique vehicle.
* **Person** means all natural persons, firms, co-partnerships, corporations, and all associations of natural persons, incorporated or unincorporated, whether acting by themselves, or by an agent, or employee. Any person who violates any of the provisions of this ordinance whether as owner, occupant, lessee, agent, or employee will, except as otherwise provided, be equally liable as principals.
* **Scrap tire** means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.
* **Small-engine machine** means any vehicle, equipment, or tool powered by a low-power internal combustion or electric engine including but not limited to power tools, chainsaws, string trimmers, leaf blowers, snow blowers, lawnmowers, woodchippers, tillers, chainsaws, go-karts, snowmobiles, off-highway vehicles, and scooters.
* **Special interest vehicle** means a motor vehicle that is at least 20 years old and has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.
* **Trash and rubbish** mean any form of debris not otherwise classified.

**Section 2 - Storage of junk, junk automobiles, travel trailer, mobile homes, etc., contrary to public health safety.**

**9.2. Accumulation**

The storage or accumulation of trash, rubbish, junk, junk automobiles and trucks, abandoned vehicles and farm equipment, mobile homes, or building materials upon any public or private property within the city, tends to result in blighted and deteriorated neighborhoods, increased criminal activity, the spread of vermin and disease, and is therefore contrary to the public peace, health, safety and general welfare of the community.

It is unlawful for any person to store, or permit to be stored, the accumulation of trash, rubbish, junk, junk automobiles, abandoned vehicles, or mobile homes on any public or private property in the city except within a completely enclosed building or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in second hand goods or junk gatherer.

**Section 3- Unlawful to maintain blighted structures.**

**9.3. Blighted Premises.**

It is unlawful for any person or entity to keep or maintain any dwelling, mobile home, garage, or outbuilding, or any factory, shop, store, shed, warehouse, or any other structure or part of a structure that because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling or useful for the purpose for which it may have been used or intended.

Vacant structures deemed by the city to be useable, but are at the time of annual inspection, uninhabited and/or not in apparent use, to include, houses, barns, sheds, mobile homes, and travel trailers must be kept securely locked and the windows kept glazed or neatly boarded up and otherwise protected to prevent entrance by unauthorized persons, or vermin, rodents and other pests, unless such structure is in the course of construction, and unless such construction is completed within a reasonable time.

Notwithstanding the foregoing, the city council may deem the premises to be unsafe and/or dangerous and take appropriate enforcement action to have the condition removed by the owner or be charged for the demolition of the premise. Furthermore, the city shall define a property that has endured substantial cessation of normal construction for more than two years and a vacant structure that has been boarded up for more than one year as blighted.

**9.3.1. Accumulation of Building Materials**

It is unlawful for any person to store or permit the storage or accumulation of building materials on any public or private property, except in a completely enclosed building or except where the building materials are part of the stock in trade of a business located in the property, or except when the materials are being used in the construction of a structure on the property.

**9.3.2 Abatement of health nuisances.**

In any case in which the city deems it necessary for the protection of the health and safety of the city to abate or to remove any nuisance, source of filth, or cause of sickness, found on private property, it will cause notice to be served on the owner or occupant thereof, requiring the owner or occupant to remove the nuisance, source of filth, or cause of sickness, at the owner's or occupant's expense, within a reasonable time, but not less than 48 hours.

**9.3.3. Failure to Comply**

 If the owner or occupant refuses or neglects to comply with the notice, or if the nuisance, source of filth, or cause of sickness, exists on the property of nonresident owners, or upon property the owners that cannot be found, the city may remove the nuisance, source of filth, or cause of sickness, at the expense of the city.

**Section 4 – Management of Grass, Trees, and Shrubbery**

**9.4.** The city council is authorized and empowered to notify in writing the owner, occupant, or owner's/occupant's agent, of any lot, place, or area within the city, to cut, destroy, and/or remove any weeds, or grass exceeding eight inches in length, or any unhealthful growths or other noxious matter, found growing, lying or located on their property or upon the sidewalk abutting the same.

**9.4.2. City Mowing**

The city council will ensure city property is mowed in accordance with same standards as mandated for property owners.

**9.4.3. Grass – Property Owner Responsible**

Grass on private city lots, vacant or occupied, shall be mowed during the summer season a minimum of four times to keep the property’s appearance as not being abandoned or neglected. The property owner should endeavor to keep the grass level at eight (8) inches and below.

**9.4.4. Trees and shrubbery**

Trees and shrubbery must be groomed to remove dead branches, and dead trees and shrubbery should be removed from the property for reason of safety and appearance of the community. Dead trees adjacent to power lines, city streets, or adjacent to another person’s property, must receive priority in the removal process. Restitution for damage caused by failure to maintain the property and the resulting costs to repair said damage caused by falling trees or branches on another person’s property, Otter Tail Power Company lines and/or boxes, or City of Kramer infrastructure shall be the responsibility of the lot owner.

**9.4.4.a. Accountability for Damage**

 Should the property owner/occupant on any given lot fail to adhere to paragraph 9.4.2. Trees and Shrubbery, and not act after verbal or written notice that trees and/or limbs have fallen onto city streets and/or alleys, or pose a danger to public safety, in a meaningful time, the City of Kramer shall proceed to clear away the material at cost to said land owner/occupant where said trees fell or endanger the safety of the public.

**Section 5 – Enforcement and Notice of Enforcement**

**9.5. Empowerment**

The Kramer City Council is empowered to administer and enforce the provisions of Chapter 9 through the City Council, the Bottineau County Sheriff, and Bottineau County Court System. Enforcement of the provisions of the chapter begin with the issuance of a notice.

**9.5.1. Notice**

Notice is deemed to be received when served in accordance with the following:

* A copy is delivered personally upon the owner;
* A copy is left with the owner's agent, the person responsible for the property, the person occupying the property, or at the owner's usual place of residence in the presence of a person of suitable age and discretion who resides there; or
* A copy is sent by mail or third-party commercial delivery addressed to the individual to be served and requiring a signed receipt.
* If mail is returned showing that the notice was not delivered, a copy of the notice shall be posted in a conspicuous place on or about the property affected by the notice.

**9.5.1.a. Notice Defined**

Whenever the Mayor or council members determine that there has been a violation any provision of the City of Kramer Municipal Code - Chapter 9 - Property Maintenance on private property, a notice shall be issued by the city auditor to the owner and occupant of the premises. Notice shall:

* be in writing,
* identify the premises involved,
* include a statement of the violation,
* include a correction order describing the improvements required to bring premises into compliance, and a date and time the improvements must be accomplished
* inform the recipient of the right to appeal and the consequences of failing to comply with the notice.

**9.5.2. Service of Notice**

Service of any notice or order required by Chapter 9 with respect to a violation on private property shall be made either personally or by mailing a copy of such notice or order by registered or certified mail, return receipt requested, to each person entitled to notice at the address appearing on the city property roll. If the notice is mailed, a copy of the notice or order shall be posted in a conspicuous place on the premises involved in the proceedings. The failure of any individual to receive the notice shall not affect the validity of any proceedings or action taken under this Chapter. It is unlawful to tamper with or remove a posted notice.

**9.5.3. Tagging.**

An alternative to written notice is tagging, which requires the Kramer City Council, or the Bottineau County Sheriff to place a tag upon such material that requires removal notifying the owner thereof of such violation and that the material must be removed by the owner within a specified day and time or the city shall remove said material and the owner shall be charged for the removal, unless the violation is corrected.

**9.5.4. Removal.**

The city may remove or cause to be removed any trash, rubbish, junk, building materials, junk automobiles, abandoned vehicles or parts of junk or abandoned vehicles, mobile homes and travel trailers from any public or private property after providing notice pursuant to this section and providing a reasonable time for compliance which must be no less than 72 hours and no more than 30 days.

**9.5.5. Appeal**

Any person has the right to appeal a decision of the city council by submitting a written request for review to the council prior to the date of removal. The request shall be further heard and reviewed on such date and at such a time as determined by the City Mayor and notice of the meeting shall be provided to the person submitting the request. The decision of the City Mayor shall be final.

**9.5.6. Removal of Trash**

Any trash, rubbish, junk, building materials, junk automobiles, abandoned vehicles or parts of junk or abandoned vehicles, mobile homes, or travel trailers will be removed and disposed of in accordance with the law. The removal of violations by the city does not excuse or relieve any person of the obligations and/or penalties imposed by Chapter 9.

**9.5.7. Littering Prohibited**

A person shall not discard and abandon litter on any public property within the City of Kramer, which include, the City Park, City Hall and grounds, all streets, alleys and adjacent right of ways, culverts and remaining sidewalks. Citizens of Kramer are encouraged to use garbage receptacles provided in the city park. Litter is defined as trash, such as paper, cans, bottles, food wrappers that are often left lying in an open or public place or thrown from vehicles.

 The City of Kramer shall also hold persons or parties involved in celebrations, parties and such, as accountable for litter created by their participants. Organizers of events must provide a post-event cleanup. The city reserves the right to charge cleanup fees for events that fail to meet this requirement.

**Section 6 - Property maintenance - Penalties.**

**9.6. Failure to comply with Notice**

Whenever an owner or occupant of property has failed to comply with the notice and requirement to remove or cause to be removed any items outlined as violations of the provisions of this chapter, in the specified time, the city shall fine the owner and/or the occupant with a non-criminal offense with a fifty-dollar ($50.00) penalty and provide no more than 30 additional days to affect removal of the violation, upon such time the city shall commence removal actions.

**9.6.1. Penalty – Failure to Correct Violation**

Regardless if the penalty is paid when due, if the violations remains on the landscape after the time extended with the fine, the city shall declare the owner or occupant of property has failed to comply with the notice and requirement to remove or cause to be removed any items referred to in this chapter, shall remove those items, and the owner or occupant of the property will be billed for the cost of removal by the municipality.

The cost of removal of materials will result in the owner or occupant of the property being charged the labor fee per individual associated with the removal at twenty-five dollars ($25.00) an hour, the transportation fee at twenty-five dollars ($25.00) per trip to remove the material from the City of Kramer, and the fees paid by the City of Kramer to deposit the trash, junk and related materials at the Bottineau County Landfill, located north of the City of Bottineau.

If the payment for the removal is not made when due, it may be assessed against the premises on which the work was done, collected and returned in the same manner as other municipal taxes are assessed, certified, collected, and returned, in accordance with N.D.C.C. § 45-05-01.1. The city reserves the right to seek a civil judgment against the owner or occupant for such costs.

**9.6.2 Failure to Mow - Penalty:**

The Kramer City Council shall give, when feasible, written notice to property owners/occupants for failure to mow the property by a specified time. If the mowing is not completed by the specified time (not to exceed 5 days), without cause or appeal, the city shall mow the property at the cost of twenty-five dollars ($25.00) an hour. If the fee for mowing is not paid within 45 days, the cost shall be assessed against the premises on which the work was done, collected and returned in the same manner as other municipal taxes are assessed, certified, collected, and returned, in accordance with NDCC 45-05-01.1.

**9.6.3. Debris from mowing in city wastewater system - Penalty**

When mowing debris from private property is being blown into city wastewater ditches and/or against or into culverts, the city shall give said property owners notice that the debris must be removed by a certain date and time (not to exceed 15 days) and direct future property maintenance to avoid such action. If the property owner fails to act by the established date,the city shall remove the debris and clear the wastewater areas at the rate of twenty-five-dollars ($25.00) an hour. If the landowner fails to pay said penalty, the cost shall be assessed against the premises on which the work was done, collected and returned in the same manner as other municipal taxes are assessed, certified, collected, and returned, in accordance with NDCC 45-05-01.1.

**9.6.4. Failure to Clear Dead and Diseased Trees – Penalty**

Property owners have a general responsibility to maintain their property in a way that doesn't create a hazard to others. This includes keeping trees on private property that are adjacent to public rights-of-way pruned and maintained to avoid interference with public travel. When property owners and/or occupants are informed (verbal or written) notice that dead or diseased trees on their property are posing a ‘fall risk” into city streets, alleys, and/or wastewater ditches, electrical lines, power boxes, and/or dwellings on private property and a response to clear such problems has not occurred, or verbal confirmation that action is to be taken (not to exceed 30 days), the city shall proceed to remove such obstacles and threats to public safety at the cost of fifty dollars ($50.00) an hour, and five dollars ($5.00) per trip to the city inert landfill to deposit wood debris. Other debris cleaned up will be moved back onto the property it originated from. The cleanup fee will be sent to the property-owner or occupant of the property with the trees. If the penalty is not paid, then the cost shall be assessed against the premises on which the work was done, collected and returned in the same manner as other municipal taxes are assessed, certified, collected, and returned, in accordance with NDCC 45-05-01.1.

**9.6.4.a. Natural Causes**

Should downed trees in streets, alleys and city wastewater ditches be the consequence of a significant storm, and the trees affected were not previously identified by the city as a threat to public safety, the City shall commence mitigation efforts to open street and alley access as soon as possible. Under such circumstances, the city shall bare the cleanup costs.

**9.6.5. Littering Prohibited - Penalties**

A person violating the litter provision is guilty of an infraction. Littering in the park is an infraction and a fine of twenty-five dollars ($25.00) must be imposed. Littering from a vehicle is an infraction and a fine of fifty dollars ($50.00) must be imposed.

Any person dumping significant quantities of trash on the ground around the city dumpster out of neglect and fails to clean the litter is guilty of an infraction. Based on the scope of the violation a fine of no less than twenty-five dollars ($25.00) and no more than one hundred dollars ($100.00) must be imposed.

**9.7. Saving Clause as to Constitutionality.**

The object sought by this enactment is to provide for the safety and well-being of the community, and it is hereby declared that if any provision of the ordinance in manner controverts the provisions of the Constitution of the State of North Dakota that the remaining provisions would have been enacted by the people even though such provisions had been eliminated. Hence if any of the provisions are found to be in violation of the Constitution, the remaining provisions shall not be affected by such invalidity but shall remain in full force and effect.

**9.8. Date of Authorization**

This municipal Chapter requires two readings, a vote of approval by the Kramer City Council, and it shall then become effective on the date of publication of penalties in the Bottineau Courant.

**9.9**. **Supremacy Clause.**

This ordinance supersedes all previous ordinances and amendments and negates all and any previous contracts and agreements, written or spoken, concerning the care and management of properties within the City of Kramer.

Attorney Review

Date of First Reading:

Date of Second Reading:

Date of Publication in Bottineau Courant:

Adopted this day

Mayor: Auditor Attests