## ORDINANCE NO. \_\_12\*19\*22A\_\_\_\_\_\_\_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOLLAND; PROVIDING FOR THE REGULATION AND REMOVAL OF PUBLIC NUISANCE; PROVIDING NOTIFICATION PROCEDURES; PROVIDING FOR A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle is unsafe or constitutes a hazard to safety, health, or public welfare and is considered a nuisance; and

**WHEREAS**, the City Council finds that it is in the best interest of the citizens of the City of Holland to regulate public nuisances within the City limits of the City of Holland; NOW THEREFORE,

**BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF HOLLAND, TEXAS AS FOLLOWS:**

Part 1. Enacted

THAT, the following is adopted for the regulation and removal of a public nuisance in the City of Holland:

**Section I.** [**Unwholesome conditions specified; unlawful to maintain.**](https://ecode360.com/38611230#38611231)

It shall be unlawful for the owner, lessee, or occupant of any land, tract, or lot or any portion thereof regardless of size within the corporate limits of the city, with the exception of agricultural areas, to fail to do the following:

1. to maintain said property free of weeds, grass and undergrowth over twelve (12) inches tall; or
2. to fail to maintain said property free from household trash, garbage, used building materials and supplies, used and/or discarded household fixtures or appliances, toxic materials, stagnant water, dead animals, sewage, body waste, industrial by-product, brush piles, debris, rubbish, tires, batteries, vehicle parts, materials which may constitute a fire hazard, and any other matter or materials which may be detrimental to the health, safety and welfare of the citizens of the city.

[**Section. II. Abatement of unwholesome conditions; notice.**](https://ecode360.com/38611230#38611232)

[(a)](https://ecode360.com/38611233#38611233)In the event that the owner of any lot, tract, parcel of land, or a portion thereof, situated within the corporate limits of the city shall fail to comply with Section I of this Ordinance, then the city shall give notice to such person setting forth the noncompliance with this article. Such notice shall be in writing and may be served upon such person in any one or more of the following ways:

[(1)](https://ecode360.com/38611234#38611234) Personally given to the owner in writing;

[(2)](https://ecode360.com/38611235#38611235) Addressed to the owner by letter to the owner’s address as recorded in the appraisal district records of the appraisal district in which the property is located; or

[(3)](https://ecode360.com/38611236#38611236) If personal service cannot be obtained or if the owner’s post office address is unknown, notice may be given by publication at least once in the city’s official newspaper or by posting the notice on or near the front door of each building on the property to which the violation relates or by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

[(b)](https://ecode360.com/38611237#38611237) If notice is mailed to a property owner in accordance with subsection [**(a)**](https://ecode360.com/38611233#38611233) and the United States Postal Service returns the notice as “refused” or “unclaimed,” the validity of the notice is not affected and the notice is considered as delivered.

[(c)](https://ecode360.com/38611238#38611238) In the notice herein provided for, the city shall have the right to inform the property owner that if he or she commits another violation of the same kind or nature on or before the first anniversary of the date of the notice, the city may, without further notice, correct the violation at the owner’s expense and assess the expense against the property.

[**Section III. Abatement expenses; property assessments; lien.**](https://ecode360.com/38611230#38611239)

1. If the owner does not comply within seven (7) days after the proper giving of notice, the city may cause any of the work or improvements mentioned or required in Section II to be done initially at the expense of the city, on the account of the owner, lessee or occupant of the property on which such work or improvements are done, and cause all of the actual cost to the city to be assessed on the real estate or lot on account of which such expense is incurred. The City Secretary shall mail a statement of expenses incurred under this section giving the amount of such expenses, the date on which such work was done and a description of the premises upon which such work was done or improvements made to the owner of the property on which the work was performed.
2. The city shall have a privileged lien on such lot or real estate upon which such work was done or improvements made to secure the expenditures so made, in accordance with the provisions of Sec. 342.007 of the Texas Health & Safety Code, which lien shall be second only to tax liens and liens for street improvements, and such amount shall bear ten (10) percent interest from the date the statement was filed. For any such expenditures and interest, as aforesaid, suit may be instituted and recovery and foreclosure of such lien may be had in the name of the city, and the statement of expenses so made, as aforesaid, or a certified copy thereof shall be prima facie proof of the amount expended for such work or improvements.
3. The city secretary shall file a statement of expenses with the Bell County Clerk. The lien statement must state the name of the owner, if known, and the legal description of the property.

[**Section IV. Dangerous weeds.**](https://ecode360.com/38611230#38611240)

1. Should the violation consist of weeds in excess of forty-eight (48) inches in height which are deemed by the city to be an immediate danger to the health, life or safety of any person, the city may immediately abate said nuisance with no notice to the property owner.
2. Not later than the 10th day after the date the municipality abates weeds under this section, the municipality shall give notice to the property owner in the manner required by Section II.
3. The notice shall contain:
4. an identification, which is not required to be a legal description, of the property;
5. a description of the violations of the ordinance that occurred on the property;
6. a statement that the municipality abated the weeds; and
7. an explanation of the property owner ’s right to request an administrative hearing about the municipality ’s abatement of the weeds.
8. The City Council shall conduct an administrative hearing on the abatement of weeds under this section if, not later than the 30th day after the date of the abatement of the weeds, the property owner files with the municipality a written request for a hearing.
9. An administrative hearing conducted under this section shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the municipality ’s abatement of the weeds.
10. A municipality may assess expenses and create liens under this section as it assesses expenses and creates liens under Section III. A lien created under this section is subject to the same conditions as a lien created under Section III.

[**Section V. Penalty.**](https://ecode360.com/38611230#38611241)

Any person, corporation or association maintaining a public nuisance as defined in this Ordinance shall be deemed guilty of an offense, and upon conviction, shall be punished by a fine not to exceed Two Thousand Dollars ($2,000.00) for each day that a violation exists, and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues. Furthermore, any person who obstructs or attempts to obstruct the city, any of its employees or authorized agents from enforcing the provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed Five Hundred Dollars ($500.00) for each violation.

[**Section VI. Maintenance of property.**](https://ecode360.com/38611230#38611242)

[(a)](https://ecode360.com/38611243#38611243)Sidewalks, alleys, rights-of-way. All owners or occupants of property shall maintain their property in a clean and litter-free manner, including sidewalks, grass strips, one-half (1/2) of alleys, curbs and rights-of-ways up to the edge of the pavement of any public street.

[(b)](https://ecode360.com/38611244#38611244)Sweeping into sidewalks or streets. No person shall sweep into or deposit in any street or sidewalk the accumulation of yard refuse, clippings, or litter from any building or property.

[(c)](https://ecode360.com/38611245#38611245)Places where water may accumulate. It shall be unlawful for any person who owns or occupies any lot within the corporate city limits of the ETJ (extra-territorial jurisdiction) to permit or allow holes or places on such lot where water may accumulate and become stagnant, or to permit the same to remain.

[(d)](https://ecode360.com/38611246#38611246)Scattering of refuse and littering prohibited. It shall be unlawful for any person to:

[(1)](https://ecode360.com/38611247#38611247) Scatter refuse about or litter any public or private street or area or place; or

[(2)](https://ecode360.com/38611248#38611248) Cast, throw, place, sweep or deposit anywhere within the city any refuse or trash in such manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway, or other public place or into any occupied or unoccupied premises, commercial or residential, within the city.

Part 2 Severability

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, and the remainder of this Ordinance shall be enforced as written.

Part 3 Compliance with Texas Open Meetings Act

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

Part 4 Publication

The City Secretary is hereby authorized and directed to cause publication of this Ordinance in accordance with law.

Part 5 Effective Date

This Ordinance shall take effect immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS 19th DAY OF DECEMBER 2022.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Johnny Kallus, Mayor Pro Tem**

**ATTEST:**

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**Paula Byrd, City Secretary**