



UPDATE ON GRUBTUBS INC. COMPLAINT PROCESS

City of Buda, TCEQ, & Hays County Regulating Authority

BUDA, TX - Aug. 22, 2019 - Over the past month, the City of Buda has filed multiple cases in Buda Municipal Court against GrubTubs Inc. for violation of the City's Odor Nuisance Ordinance. Per the City's ordinance, if the defendant is found guilty, the penalty in municipal court is a ***fine only***. Violation of the ordinance is considered a Class C Misdemeanor, with a fine of up to \$500 with each occurrence being a separate violation. The defendants in municipal court are presumed innocent until and unless found guilty.

GrubTubs' attorney submitted a letter of representation and a plea of not guilty for the ***first round of code enforcement complaints, for the second round of code enforcement complaints, and for the first round of citizen complaints***. A Pre-Trial hearing is set for September 12, 2019. Pre-Trial hearings are closed to the public. If the defendant wants to go to trial after the initial Pre-Trial hearing, the municipal court will set a trial and subpoena citizens who filed complaints. Trials are open to the public.

What is the City of Buda's regulating authority over Grub Tubs Inc.?

GrubTubs Inc. falls outside the Buda city limits. Regulations concerning land use, environmental controls and permitting for the business are not within the City's jurisdiction. Therefore, the City has no authority to pull the permit or shut down the facility. The facility is located in unincorporated Hays County. Hays County, the Texas Commission on Environmental Quality (TCEQ), or any other applicable state agency may have authority over GrubTubs to regulate the business in accordance with each entity's rules and regulations.

What happens next?

Currently, the criminal charges are processing through municipal court. At any point, the defendant may plead guilty or no contest and be assessed a fine (only) by the court. If the defendant proceeds through the entire process to trial, all residents and witnesses who are willing to testify at the trial(s) will provide corroborative evidence to the City's prosecution. It is essential that witnesses document the date, time, location and details of each offense. In criminal court, the City will be held to the same standard and must provide proof beyond a reasonable doubt.

How do I file a Civilian Municipal Court complaint?

Citizens can file a Civilian Municipal Court complaint at the City of Buda Municipal Court Office located at 405 East Loop Street, Building 100. The complaint form is a sworn statement that will ask for your name, the date of the offense, and the location of the offense. Completion of the form may require that you testify in court. Please note that the civilian complaint is not a requirement.

Citizens who do not want to file a Civilian Municipal Court complaint may still submit statements to the City's Code Enforcement Officer at codeenforcement@ci.buda.tx.us, or online at <https://www.ci.buda.tx.us/RequestTracker.aspx> under the code enforcement tab.

The City ordinance only allows the City to enforce odor nuisances.

Link to Odor Nuisance Ordinance:

<https://www.ci.buda.tx.us/DocumentCenter/View/6956/Odor-Nuisance-Ordinance>



TCEQ Action and Regulating Authority

As of August 21, 2019, the Texas Commission on Environmental Quality (TCEQ) Austin Regional Office has conducted six odor surveys in the nearby neighborhood and conducted four on-site investigations on March 21, 2018, March 15, 2019, June 11, 2019 and July 9, 2019 in response to complaints received about GrubTubs, Inc.

Two Notices of Violation were issued to GrubTubs, Inc. as a result of investigations on March 15 and June 11, 2019. During the July 9, 2019 investigation, violations were still present so the TCEQ issued a Notice of Enforcement to GrubTubs, Inc. on August 21, 2019 for continuing violations at the facility that are contributing to off-site odors. The enforcement case is currently being developed. [TCEQ's enforcement process](#) explains the phases of action that can occur when violations are documented.

The TCEQ will continue to respond to citizen complaints regarding the facility and is working with both Hays County and the City of Buda regarding this compliance issue. In addition to TCEQ, the City of Buda is also investigating odors per their [City Nuisance Ordinance in Article 12.02](#).

Information on how to make an environmental complaint within TCEQ's jurisdiction can be found at: <https://www.tceq.texas.gov/compliance/complaints>.

Hays County Regulating Authority

Hays County does not have any odor authority as the State of Texas does not grant counties the authority to adopt such an ordinance. In relation to this property, Hays County's enforcement would be for the breeding of flies, exposed garbage, drainage issues, sewage, human excreta, and wastewater concerns. The area highlighted below is what the county can enforce as part of Texas Health and Safety Code Chapter 341.

We have also provided a link to the entire code here: [Texas Health and Safety Code 341](#)

HEALTH AND SAFETY CODE

TITLE 5. SANITATION AND ENVIRONMENTAL QUALITY

SUBTITLE A. SANITATION

CHAPTER 341. MINIMUM STANDARDS OF SANITATION AND HEALTH PROTECTION MEASURES

SUBCHAPTER A. GENERAL PROVISIONS

SUBCHAPTER B. NUISANCES AND GENERAL SANITATION

Sec. 341.011. NUISANCE. Each of the following is a public health nuisance:

(1) a condition or place that is a breeding place for flies and that is in a populous area;

(5) sewage, human excreta, wastewater, garbage, or other organic wastes deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in disease transmission to a person or between persons;

The Hays County Sheriff's Department will respond to issues such as high weeds on the property. The sheriff's department enforces Texas Health and Safety Code Chapter 343.

We have provided a link to the entire code here: [Texas Health and Safety Code 343](#)

For additional questions regarding Hays County enforcement procedures, please contact the Hays County Development Services Department at 512-393-2150.