



## City Council Agenda Item

**City Council Meeting Date:** August 20, 2019

**TO:** Jim Throop, City Manager

**FROM:** Brad Wilkie, Utility Director  
b\_wilkie@ci.lompoc.ca.us

**SUBJECT:** Appeal by Subway Restaurant of Utility Director's Ruling on Request for Reconsideration Regarding Enforcement of Lompoc Municipal Code Section 13.16.370 – Trap/Interceptor Required (1206 West Ocean Ave.)

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### **Recommendation:**

Staff recommends the City Council:

- 1) Hear Subway Restaurant business owner's appeal of the Utility Director's requirement to install a grease trap/interceptor; and
- 2) Make a ruling on the appeal.

### **Background:**

Lompoc Municipal Code (LMC) section 13.16.370 requires traps/interceptors to capture grease from food service establishments (FSE), such as the Subway Restaurant location at 1206 West Ocean (Subway), as deemed necessary by the Utility Director:

- A. Traps/interceptors to capture grease, oil, lint, hair, and/or sand shall be provided when, in the opinion of the Director, they are necessary for the protection of the wastewater system from liquid wastes containing excessive amounts of grease, flammable wastes, sand, or other harmful ingredients. Such traps/interceptors may be required, for discharges from service stations, restaurants, automobile repair garages, wash racks, laundries, barbershops, beauty shops, and dry cleaning establishments and other facilities as deemed necessary by the Director.
- B. The Director shall notify any user when he or she has determined that a trap/interceptor is necessary, and the user shall provide, operate, and maintain the trap/interceptor in accordance with Section 13.16.350. All traps/interceptors shall be of a type and capacity

approved by the City. Users installing a new grease interceptor shall abide by any additional conditions required by the Director.

- C. Installation of new grease interceptors shall be conducted in accordance with manufacturer's specifications and in accordance with the Uniform Plumbing Code, as specified in Section 15.24.010 of this code. Grease and oil or sand traps/interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes of temperature. Traps/interceptors shall be of substantial construction, water-tight and equipped with easily removable covers which when in place shall be gastight and water-tight. All traps/interceptors shall be located as to be readily and easily accessible for cleaning and inspection, and shall be maintained continuously in satisfactory and effective operation by the user.

The Utility Director has determined that in order to meet the requirements of the City's National Pollutant Discharge Elimination System (NPDES) Permit issued by the California Regional Water Quality Control Board (Water Board) all FSEs in the City must install a grease trap or interceptor.<sup>1</sup> Large FSEs are required to install an in-ground interceptor in the establishment's sewer lateral in order to capture grease, preventing it from being discharged into the City's sewer collection main line and being carried downstream to the wastewater treatment plant.

The City's NPDES permit regulates the City's wastewater discharge of pollutants to waters of the United States. If the Water Board finds the City in violation of the City's NPDES permit, fines of up to \$6,000 per occurrence per day can be imposed against the City.

Due to the expense of in-ground interceptors, and in keeping with the City's goal of being business-friendly, the City has determined smaller volume FSEs may install under-sink grease traps instead. The expense related with installation of an under-sink grease trap, as opposed to an in-ground interceptor, decreases exponentially. The cost of grease traps is estimated from \$250-\$900; installation requires a plumbing permit, as would any alteration of a plumbing system. Plumbing costs vary with each application as each establishment has different needs. In addition, as plumbing costs also vary by contractor, the City recommends obtaining multiple quotes for installation of the units; the City does not provide recommendations to customers in regards to plumbing contractors.

In comparison, many other cities on the Central Coast, under the jurisdiction of the regional Water Board, require in-ground interceptors for all establishments, regardless of size. In addition, the Water Board recommends installation of in-ground interceptors for all food establishments. The City has determined that under-sink grease traps provide the necessary protections for the City's wastewater system in appropriate situations, in

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<sup>1</sup> The City's NPDES permit is available for viewing on the City's website at:  
<https://www.cityoflomoc.com/home/showdocument?id=1142>

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contrast to the Water Board's recommendations. Allowing under-sink grease traps in smaller establishments reflects the City's business-friendly approach that saves smaller businesses thousands of dollars.

Following the recommendations of the Water Board, during 2018, Wastewater Division staff canvassed the City's FSEs and requested each to complete a survey related to the establishment's wastewater characteristics and requested each establishment to return the completed survey to the Wastewater Division. The purpose of the surveys was to identify opportunities to improve the wastewater system and treatment plant operations and to determine users who needed either a discharge permit and/or traps/interceptors, in compliance with the City's NPDES permit.

### **Discussion:**

As a result of the completed survey for Subway, it was determined the location had removed its in-ground grease interceptor without notifying the Wastewater Division or obtaining the required plumbing permit from the Building Division. The removal was contrary to approved building plans in 2014 for the site, which included an in-ground grease interceptor located under the restroom floor (Attachment 1).

Subway was provided information regarding the required reinstallation of its grease interceptor. As with other FSEs requiring either an in-ground interceptor or under-sink trap, Wastewater Division staff was ready and willing to provide guidance regarding the installation process to help the establishment minimize installation and operational costs. Several FSEs have worked with, and continue to work with, Wastewater Division staff in the installation process and have provided positive feedback to the Utility Director regarding the friendly nature of the staff interactions and their professional approach to the process.

After several attempts to gain voluntary compliance, a Notice of Violation (NOV) was issued on June 4, 2019, requiring Subway to reinstall its grease interceptor (Attachment 2). Subway requested reconsideration of the grease interceptor requirement, via United States Postal Service received by the City on June 24, 2019 (Attachment 3). On July 16, 2019, a Ruling on Request for Reconsideration was sent to Subway (Attachment 4); and on July 23, 2019, Subway's Appeal to the City Council was received by the City Clerk (Attachment 5). The hearing was duly noticed on July 30, 2019 (Attachment 6).

In addition to requirements of LMC section 13.16.350, all new development of FSEs are required to comply with the Uniform Plumbing Code. Uniform Plumbing Code section 1014 (incorporated into the LMC by LMC section 15.24.010) requires all FSEs to install pretreatment devices where it is determined by the Authority having jurisdiction that waste pretreatment is required. Subway was developed during 2014 and its building permit was finalized on March 12, 2018. As such, it was subject to the Uniform Plumbing Code section 1014 at the time tenant improvements were constructed. A grease interceptor was installed under the bathroom floor as part of their tenant improvements in compliance with that requirement. Since that time, however, it has been determined the grease interceptor

was removed, and the access point tiled over (in opposition to the finalized building permit) without obtaining the required plumbing permit for the interceptor's removal.

**Fiscal Impact:**

There is no negative fiscal impact to the City if Subway reinstalls its grease interceptor. Once reinstalled, the City's exposure to increased operations costs related to the collection main system and the wastewater treatment plant would be reduced. However, if the owner does not reinstall its grease interceptor, the risk of impacts to the General Fund consisting of fines issued by the Water Board would likely increase. In addition, ongoing maintenance, operations, and repairs to the City's wastewater system, including the sewer collection system and the wastewater treatment plant, would likely increase due to excess grease being allowed into the City's sewer collection mains.

**Conclusion:**

A ruling other than to uphold the Utility Director's decision could expose the City to unnecessary costs, unknown but potentially significant long-term liabilities and would continue the existing precedent established by the City Council at their June 4, 2019, and July 2, 2019, meetings for other similar food service establishments who also refuse to install the required traps/interceptors. The most business-friendly approach is to apply the LMC requirements equally to all businesses.

Respectfully submitted,

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Brad Wilkie, Utility Director

**APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:**

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Jim Throop, City Manager

- Attachments:
- 1) Subway Building Plans from 2014
  - 2) NOV dated June 4, 2019
  - 3) Request for Reconsideration dated June 24, 2019
  - 4) Ruling on Request for Reconsideration dated July 16, 2019
  - 5) Appeal to City Council dated July 19, 2019
  - 6) Notice of Hearing dated July 30, 2019.