

RESOLUTION NO. 6275(19)

**A Resolution of the City Council of the City of Lompoc,
County of Santa Barbara, State of California,
Granting the Appeal by Subway Restaurant of Utility Director's
Ruling on Request for Reconsideration Regarding Enforcement of
Lompoc Municipal Code Section 13.16.370 Grease Trap/Interceptor
Required (1206 W. Ocean Avenue)**

WHEREAS, pursuant to Lompoc Municipal Code (LMC) subdivision 13.16.370(A), "Traps/interceptors to capture grease, oil, lint, hair, and/or sand shall be provided when, in the opinion of the [Utility] 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 [Utility] Director"; and

WHEREAS, following receipt of a completed survey issued to food service establishments in the City of Lompoc (City), Lompoc Wastewater Division staff determined that Subway Restaurant, located at 1206 W. Ocean Avenue in Lompoc ("Subway"), did not have a grease interceptor; and

WHEREAS, according to City staff, Subway had removed its in-ground grease interceptor and tiled over the access point (which is a deviation from the final building permit), without notifying the Wastewater Division or obtaining the required plumbing permit from the Building Division; and

WHEREAS, on June 4, 2019, following several attempts to gain voluntary compliance from Subway, the Wastewater Division issued a Notice of Violation and Enforcement Order ("NOV") to Subway, informing Subway it was in violation of LMC Section 13.16.370 and requiring Subway to reinstall its grease interceptor; and

WHEREAS, on June 24, 2019, the City received a request for reconsideration of the NOV from Subway ("Request for Reconsideration"); and

WHEREAS, on July 16, 2019, the Utility Director issued a Ruling on Request for Reconsideration ("Ruling"), upholding the finding in the NOV that Subway was required to reinstall its grease interceptor; and

WHEREAS, on July 23, 2019, Subway appealed the Ruling to the City Council pursuant to LMC section 13.16.140; and

WHEREAS, a duly noticed public hearing was held before the City Council on August 20, 2019; and

WHEREAS, at that public hearing, City staff recommended the appeal be denied based on their determination that all food service establishments in the City must install a grease trap or grease interceptor in order to ensure the City remains in compliance with the pollutant discharge limits in its National Pollutant Discharge Elimination System (NDPES) permit ("Permit") issued by the California Regional Water Quality Control Board ("Water Board"), and to avoid the risk of incurring fines from the Water Board for violation of the Permit conditions; and

WHEREAS, the City Council received and considered testimony from representatives of Subway, City staff, and members of the public, and reviewed the written materials in the record (collectively, the "record").

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOMPOC, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein.

SECTION 2. The Utility Director's Ruling on the Request for Reconsideration is reversed, and the NOV and Enforcement Order is vacated, with the result that the City does not require Subway to install a grease trap or interceptor at this time.

SECTION 3. The City Council's determination is based on the following findings:

- (a) The record does not include sufficient evidence demonstrating that Subway produces liquid waste containing an excessive amount of fat, oil, or grease.
- (b) The record does not contain any evidence that Subway has experienced sewer pipe blockages in the past, whether from excessive grease or from any other cause.
- (c) The record does not contain sufficient evidence that Subway was ever required to install an in-ground grease interceptor.
- (d) The record does not contain sufficient evidence that Subway removed an in-ground grease interceptor or violated a City-issued permit.
- (e) The record does not contain any evidence that Subway's operations have ever resulted in wastewater contamination.
- (f) Consequently, the record does not contain sufficient evidence to demonstrate that the installation of a grease trap or interceptor at Subway is "necessary for the protection of the wastewater system from liquid wastes containing excessive amounts of grease." (LMC subdivision 13.16.370(A).)

SECTION 4. Notwithstanding the City Council’s ruling on the appeal in Section 2, the Utility Director retains the authority to require Subway to install a grease trap or interceptor in the future pursuant to LMC section 13.16.370 if the facts or circumstances of Subway’s operations change in a way that supports a determination that such installation is necessary, or if any state or federal enforcement agency imposes penalties on the City for the decision made by this resolution, or for failure of Subway to install or maintain a grease trap or grease interceptor. Any such determination by the Utility Director may be appealed pursuant to LMC section 13.16.140.

SECTION 5. Effective Date. This Resolution is effective on the day of its adoption.

The foregoing Resolution was proposed by Council Member _____, seconded by Council Member _____, and was duly passed and adopted by the Council of the City of Lompoc at its regular meeting on September 3, 2019, by the following vote:

AYES: Council Member(s):

NOES: Council Member(s):

ABSENT: Council Member(s):

Jenelle Osborne, Mayor
City of Lompoc

ATTEST:

Stacey Haddon, City Clerk
City of Lompoc