

Ordinance No. 1660(18)

**An Ordinance of the City Council of the City of Lompoc,
County of Santa Barbara, State of California,
Amending Municipal Code Subdivisions 13.16.450, 1.04.025,
3.35.040, 3.36.015, 3.36.020, 13.04.060, 13.16.030
and Adding Subdivision 13.16.455 to the Lompoc Municipal Code
Relating to Administrative Fines for Violations of the Regulations
Related to the Sewer System**

WHEREAS, the City of Lompoc has provided facilities for the collection and treatment of wastewater to promote the health and safety and convenience of its people and for the safeguarding of water resources common to all, and

WHEREAS, the Central Coast Regional Water Quality Control Board issues a permit to, and promulgated pretreatment program requirements for, the Lompoc Regional Wastewater Treatment Plant which requires stringent and continuous control of the quality of wastewaters discharged by the system, and

WHEREAS, in order to meet the permit requirements, Lompoc Municipal Code (LMC) Chapter 13.16 sets forth requirements for users of the City's sewer system; and

WHEREAS, the LMC provides enforcement avenues either through criminal or civil remedies, both of which require time consuming litigation; and

WHEREAS, the City Council now wishes to add administrative fines as an additional enforcement tool.

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

SECTION 1. Subdivision 13.16.450.A of the Lompoc Municipal Code is hereby amended to read, in its entirety, as follows:

- A. Any user found to be violating this Chapter shall be so notified by the Director by personal service or by certified mail with a notice that the user shall, within the period of time stated in the notice or within such extension thereof as may be granted by the Director, correct and cease the violation. This notice shall not be required prior to issuance of an administrative citation pursuant to Section 13.16.455.

SECTION 2. Subdivision 13.16.450.B of the Lompoc Municipal Code is hereby amended to read, in its entirety, as follows:

- B. ~~The Director may impose administrative penalties at his or her discretion upon any user found to be violating this Chapter. Minimum penalties are specified in the City's wastewater service rates and charges, and shall be collected in accordance with the City's utility billing procedures and special charges pursuant to Section 13.16.455 upon any user found to be violating this Chapter or violating any condition of any permit issued pursuant to this Chapter.~~

SECTION 3. Subdivision 13.16.455 is hereby added to the Lompoc Municipal Code as follows:

13.16.455 Administrative Fines

In addition to any other remedy which is allowed by law, whether administrative, criminal, civil, or equitable, the Director may impose an administrative fine for any violation of any provision, restriction, or requirement of this Chapter, or any violation of any condition of any permit issued pursuant to this Chapter, as follows:

- A. An administrative fine may be imposed which shall not exceed \$2,500.00 for a first violation; \$10,000.00 for a second violation of the same provision of this Chapter; and \$25,000.00 for each additional violation of the same provision of this Chapter. Each day a violation remains shall constitute a separate violation, and each provision of this Chapter that is violated shall constitute a separate violation. In determining the amount of the administrative penalty, the Director may take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs and corrective action, if any, attempted or undertaken by the discharger.
- B. Concurrently with issuance of any administrative fine pursuant to subdivision A above, the Director shall serve a notice to the person responsible for the violation, which shall allege the act or failure to act that constitutes the violation.
- C. The notice and administrative fine shall be served by personal delivery or certified mail (return receipt requested), and shall inform the person served they may request a hearing within 14 calendar days after personal service or postmark date of mailing. The hearing shall be scheduled within 30 calendar days of the request before a hearing officer designated by the City Manager. The hearing officer's decision shall be served by mail on the

appellant and the Director. The hearing officer's decision on appeal shall be final.

- D. Unless appealed, administrative fines shall become effective and final upon issuance thereof, and payment shall be due and payable 30 calendar days thereafter. If appealed, any fines upheld shall be due and payable 30 calendar days after mailing of the final decision.
- E. Administrative fines assessed pursuant to this Section are a debt owed to the City and may be collected with utility billing charges pursuant to Section 13.16.420.

SECTION 4. The title "Utilities Director" shall be replaced with the title "Utility Director" and the title "Public Utilities Department" shall be replaced with "Utility Department" as follows:

Subdivision 1.04.025 A. 9. and 10. shall be amended as follows:

- 9. the solid waste functions of the Public Works Department, it shall be deemed to refer to the ~~Public Utilities~~ Utility Department; and
- 10. the solid waste functions of the Public Works Director, it shall be deemed to refer to the ~~Public Utilities~~ Utility Director.

Subdivision 3.36.015 shall be amended in part as follows:

"Procurement staff" means the Purchasing and Materials Manager, Economic Development Director/~~Assistant City Manager~~, Management Services Director, Public Works Director, ~~Utilities~~ Utility Director, or other department director initiating the procurement being requested, or each designee of any of those persons.

Subdivision 3.36.020 E. shall be amended as follows:

- E. The Purchasing Agent may delegate the responsibilities for the procurement of public projects to the Public Works Director or the ~~Utilities~~ Utility Director.

Subdivision 3.36.025 C. 1. shall be amended as follows:

- 1. Bid security is required for all competitive sealed bids for public projects when the Public Works Director or Utility Director estimates the price will exceed the monetary limit then in effect, pursuant to the Act that requires a formal bid. The Purchasing Agent, Public Works Director, or the ~~Utilities~~ Utility Director may require bid security for other public projects.

Subdivision 3.36.040 G. 5. shall be amended as follows:

5. Professional Services Procurement. The procurement of the professional services of any architect, landscape architect, engineer, artist, environmental consultant, land surveyor, construction project manager, accountant, or other provider of professional services involving a high degree of technical or individual skill shall be based on demonstrated competence, the professional qualifications necessary for satisfactory performance of the required services, and a fair and reasonable price, after notice to a number of potential proposers adequate to permit reasonable competition consistent with the nature and requirements of the procurement. Proposers shall provide evidence the person or firm carrying out contract responsibilities possesses the expertise and experience to perform the requisite professional services. The contract file shall contain a written summary of the basis on which notice to potential proposers was given and on which the award was made. Professional services contracts, except as authorized below, shall be awarded in accordance with Section 3.36.030(H) of this Chapter. Professional service contracts of the informal purchase limit or less may be awarded in accordance with Section 3.36.030(H) of this Chapter by purchase order, and without competition, on the written recommendation of the department or division head. Professional services contracts of any amount for the preparation of environmental reports or special studies regarding private projects, when the project applicant has deposited the full amount of the contract, may be awarded by the Purchasing Agent, Economic Development Director/~~Assistant City Manager~~, Public Works Director, or the ~~Utilities~~ Utility Director and executed by the City Manager or designee.

Subdivisions 13.04.060 B., C. and D. shall be amended as follows:

- B. The ~~Utilities~~ Utility Director may allow potable water to be used for commercial nurseries between the hours of 10:00 a.m. and 4:00 p.m., throughout the week, on an as needed basis.
- C. The ~~Utilities~~ Utility Director may allow potable water for the preparation of athletic fields prior to athletic contests for health and safety reasons, throughout the week, on an as needed basis.
- D. The ~~Utilities~~ Utility Director may allow the use of potable water for irrigation between the hours of 10:00 a.m. and 4:00 p.m., throughout the week, if required for maintenance or repair of facilities, or to establish new lawns, on an as needed basis.

Subdivision 13.16.030 shall be amended in part as follows:

“Director” means the City of Lompoc ~~Utilities~~ Utility Director or designated representative(s).

SECTION 5. This ordinance shall take effect 30 days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this ordinance and shall cause this ordinance to be posted in the manner required by law.

This Ordinance was introduced on December 4, 2018, and duly adopted by the City Council of the City of Lompoc at its duly noticed regular meeting on _____ 2018, by the following electronic vote:

PASSED AND ADOPTED this ___th day of ___ 2018, by the following electronic vote:

AYES: Council Member(s):
NOES: Council Member(s):
ABSENT: Council Member(s):

_____, Mayor
City of Lompoc

Attest:

Stacey Haddon, City Clerk
City of Lompoc