



**CITY OF LARKSPUR
Staff Report**

October 21, 2020 City Council Meeting

DATE: October 9, 2020

TO: Honorable Mayor Way and the Larkspur City Council

FROM: Kristin Teiche, Senior Planner

SUBJECT: TEXT AMEND #20-25: ADOPT ORDINANCE 1051 AMENDING CHAPTERS 18.06 (ZONING ADMINISTRATOR), 18.34 (SLOPE AND HILLSIDE), 18.35 (RESIDENTIAL FLOOR AREA RATIOS), AND 18.64 (DESIGN REVIEW) OF THE LARKSPUR MUNICIPAL CODE TO EXPAND THE LIST OF PROJECTS THAT MAY BE HEARD BY THE ZONING ADMINISTRATOR TO STREAMLINE THE HEARING PROCESS FOR MINOR, NON-CONTROVERSIAL PROJECTS

ACTION REQUESTED

That the City Council waive the second reading and adopt Ordinance 1051 amending Chapters 18.06 (Zoning Administrator), 18.34 (Slope and Hillside), 18.35 (Residential Floor Area Ratios) and 18.64 (Design Review) of the Larkspur Municipal Code.

SUMMARY AND BACKGROUND

On October 7, 2020, the City Council conducted a public hearing and review of a proposed ordinance, to amend Chapters 18.06 (Zoning Administrator), 18.34 (Slope and Hillside), 18.35 (Residential Floor Area Ratios) and 18.64 (Design Review) of the Larkspur Municipal Code (LMC).

The amendments proposed in the draft ordinance, as recommended by the Planning Commission, will streamline the processing of some permits by expanding the list of projects that may be heard by the Zoning Administrator, as opposed to the Planning Commission. The Zoning Administrator review requires a public notice and hearing process similar to the Planning Commission, however, meetings can be scheduled on an as-needed basis, and as often as required, to insure a more expedient processing timeline. Additionally, the Zoning Administrator hearing process does not require the preparation of a detailed staff report needed to inform the Planning Commission for their review. This reduces the staff time required to process a permit and the cost to applicants and property owners as well.

Other minor amendments are intended to clarify current practices, where the language is somewhat obscure, or references are missing. Additional amendments to Chapter 18.64 (Design Review) are intended to improve readability and remove awkward language, and to clarify projects that are exempt, projects that are subject to design review, and the applicable decision-making body.

AGENDA ITEM 4.3

During the hearing, the City Council heard testimony from staff and the public, and after discussion on the matter, the Council moved and approved 5-0 to introduce and waive the first reading of Ordinance 1051, as drafted.

FISCAL IMPACT

Not Applicable.

STAFF RECOMMENDATION

Staff recommends that the City Council move to waive the second reading and adopt Ordinance 1051, as written.

Respectfully submitted,
Kristin Teiche, Senior Planner

Attachments

1. Ordinance 1051

CITY OF LARKSPUR
ORDINANCE 1051

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LARKSPUR
AMENDING CHAPTERS 18.06 (ZONING ADMINISTRATOR),
18.34 (SLOPE AND HILLSIDE), 18.35 (RESIDENTIAL FLOOR AREA RATIOS), AND
18.64 (DESIGN REVIEW) OF THE LARKSPUR MUNICIPAL CODE TO EXPAND
THE DUTIES OF THE ZONING ADMINISTRATOR AND TO AMEND
AND CLARIFY ITEMS SUBJECT TO DESIGN REVIEW**

WHEREAS, due to the economic impact of the COVID-19 public health crisis in 2020, government agencies, including the City of Larkspur, are faced with a significant reduction in government revenues that would impact the City’s staffing and resources available for the processing of discretionary permits;

WHEREAS, during the public hearing held on June 9, 2020, the Larkspur Planning Commission discussed possible zoning text amendments intended to clarify items subject to design review and to expand the duties of the Larkspur Zoning Administrator and allow for a more streamlined permit process for minor improvements to residential, commercial and industrial properties;

WHEREAS, at the public hearings held on September 8, and September 22, 2020, pursuant to notice given in the manner required by law, the Planning Commission, discussed the proposed text revisions among themselves and heard and considered all oral and written testimony and arguments of all those desiring to be heard;

WHEREAS, at the conclusion of the public hearing of September 22, 2020, the Planning Commission voted to adopt Resolution No. 1/20 recommending that the City Council adopt the following amendments to the Larkspur Municipal Code;

WHEREAS, at a public hearing held on October 7, 2020, pursuant to notice given in the manner required by law, the City Council of the City of Larkspur reviewed and considered all oral and written testimony and arguments of all those desiring to be heard on the subject of adopting the proposed Ordinance, and

WHEREAS, the City Council finds that this Ordinance is consistent with the Larkspur General Plan and internally consistent with the Larkspur Zoning Ordinance in all respects.

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

Section 1. Recitals. The above recitals are true and correct and incorporated herein by reference.

Section 2. Amendment to Larkspur Municipal Code Chapter 18.06 “Zoning Administrator.” The City Council hereby amends (with additions in underline and deletions in ~~strikethrough~~) Section 18.06.020 of the Larkspur Municipal Code to read as follows:

18.06.020 Powers and Duties.

The Zoning Administrator shall have the power to hear and decide the following matters as required by and subject to the standards and criteria established in this title:

- A. Sign permits pursuant to Larkspur Municipal Code Chapter 18.60.
- B. Floor area ratio exceptions for ground-level single-story additions of less than five hundred one (501) square feet to existing residences pursuant to Larkspur Municipal Code Section 18.35.060.
- C. Conditional use permits, pursuant to Chapter 18.76, pertaining to the establishment of a retail or service business or extension or amendment to an existing business use permit.

- D. Design review pursuant to Larkspur Municipal Code Section 18.64.0205(A).
- E. Fence height exceptions pursuant to Larkspur Municipal Code Section 18.16.090(D).
- F. Lot line adjustments pursuant to Larkspur Municipal Code Chapter 17.20.
- G. Interpretation of this title, ~~as those~~ when such interpretations apply to matters heard by the Zoning Administrator.
- H. Hearing of conditional use permits previously granted by the Planning Commission requiring renewal or periodic review, unless the Planning Commission retains review authority.
- I. Use permits for temporary uses pursuant to Larkspur Municipal Code Section 18.16.245.
- J. Use permits for caretaker quarters in the Light Industrial Zoning District pursuant to Larkspur Municipal Code Section 18.52.025(E).
- K. Amendment of a previously approved and completed Slope Use Permit to allow additional site grading of less than twenty-five cubic yards, pursuant to Larkspur Municipal Code Section 18.34.060(A)(4).

Section 3. Amendment to Larkspur Municipal Code Chapter 18.34 “Slope and Hillside Development Regulations.” The City Council hereby amends (with additions in underline and deletions in ~~striketrough~~) Subsection 18.34.060(A) of the Larkspur Municipal Code to read as follows:

18.34.060 Slope Use Permit.

- A. *Slope Use Permit Requirement.* A slope use permit shall be required whenever:
 - 1. A structure is proposed within one hundred (100) vertical feet of a ridgeline.
 - 2. The average slope of the parcel exceeds twenty-five (25) percent and the amount of earth to be cut and/or filled is twenty-five (25) cubic yards or more, excluding material used solely for the purposes of filling a pool from the calculation of total fill.
 - 3. The average slope of the parcel is twenty-five (25) percent or less and the amount of earth to be cut and/or filled is one hundred fifty (150) cubic yards or more, excluding material used solely for the purposes of filling a pool from the calculation of total fill.
 - 4. Site grading is proposed on a parcel in addition to prior grading that was previously approved and completed under a slope use permit. Applications for new grading of twenty-five (25) cubic yards or less, to which this paragraph applies, shall be subject to review and approval by the Zoning Administrator, unless the Zoning Administrator refers the application to the Planning Commission. Applications for new grading in excess of twenty-five (25) cubic yards, to which this paragraph applies, shall be subject to review and approval by the Planning Commission.

Section 4. Amendment to Larkspur Municipal Code Chapter 18.35 “Residential Floor Area Ratios.” The City Council hereby amends (with additions in underline and deletions in ~~striketrough~~) Section 18.35.030 and Subsection 18.35.060(A) of the Larkspur Municipal Code to read as follows:

18.35.030 Existing Enclosed Structures – Exemption.

- A. The regulations of this chapter shall not be interpreted as rendering existing structures nonconforming.

- B. Existing enclosed structures that do not conform to the standards of this chapter may be altered or reconstructed, provided:
 - 1. That the alterations or reconstruction shall not increase the gross floor area of the structure to an amount greater than was contained in the original structure; and
 - 2. Said work otherwise meets the provisions of the Larkspur Municipal Code.

- C. Each of the following structures is excluded from the calculation to determine the maximum floor area, if they meet all other provisions of the Larkspur Municipal Code and no discretionary land use permits are required:
 - 1. A one-time-only ground-level single-story (not extending more than fifteen (15) feet above grade) building addition of two hundred (200) square feet or less in area to an existing residence, if no other additions, which added floor area, have been approved since October 20, 1982, and if not otherwise conditioned as part of an original discretionary approval (i.e., a condition of approval specifying that this exemption is not available for future additions to the structure).
 - 2. An accessory building of less than ninety-six (96) square feet, and with a building height of no more than nine (9) feet above grade, provided no other accessory buildings, except a garage or carport that provides required parking, exist on the site.
 - 3. A new detached or attached accessory dwelling unit as specifically described under Section 18.23.060 E. 4. of the Larkspur Municipal Code.

Any floor area added to a ~~home~~ property under the conditions outlined in subsections (C)(1) and (2) of this section shall count towards the floor area ratio for any subsequent application on the property receiving the exemption. Any floor area added to a property under the condition outlined in subsection C. (3) of this section shall count towards the floor area ratio if the unit is modified so that it no longer complies with the requirements for an accessory dwelling unit as provided in Chapter 18.23 (e.g. removal of the kitchen facilities and/or independent access). In the event that an accessory dwelling unit is modified in the manner described in the immediately preceding sentence, the property owner shall be required to obtain any necessary permits to legalize the previously exempted floor area.

18.35.060 Exception Permit.

- A. Subject to the following procedures, the Planning Commission may grant an exception permit to allow floor areas greater than provided for above; however, the Zoning Administrator may grant an exception permit for ~~ground-level single-story (not extending more than fifteen (15) feet above grade) additions~~ additions to, or construction of a detached accessory structure on parcels zoned for single-family and duplex use that have a gross floor area of less than five hundred and one (501) square feet ~~to existing residences.~~

Section 5. Amendment to Larkspur Municipal Code Chapter 18.64 “Design Review.”

The City Council hereby amends (with additions in underline and deletions in ~~striketrough~~) Section 18.64.020(A), re-numbers and amends Section 18.64.020(B) to 18.64.025, and re-numbers and amends Section 18.64.020(C) to 18.64.030 of the Larkspur Municipal Code to read as follows:

18.64.020 Projects Subject to Design Review and Exemptions.

- A. Except as noted below, any site or building development or modification requiring a discretionary land use permit or a building

permit shall be subject to the requirements of this chapter. For purposes of this chapter, “story” shall not include basement or cellar areas that are fifty (50) percent or more below grade on all sides.

AB. Exemptions to this chapter include:

1. New single-story single-family detached dwellings or single-story duplexes, which ~~meet all of the following:~~ conform to all standards of the applicable zoning district, do not require any discretionary land use permits and do not extend more than twenty (20) feet above grade as measured in conformance with Larkspur Municipal Code Section 18.08.295.
 - ~~a. Do not increase the existing or previous floor area on the site by fifty (50) percent or more; and~~
 - ~~b. For which no discretionary land use permit is required.~~

2. Ground-level single-story additions to existing single-family detached dwellings and duplexes, which ~~meet all of the following:~~ conform to all standards of the applicable zoning district, do not require any discretionary land use permits and do not extend more than twenty (20) feet above grade when measured in conformance with Larkspur Municipal Code Section 18.08.295.
 - ~~a. Do not extend more than fifteen (15) feet above grade; and~~
 - ~~b. Do not increase the existing or previous floor area on the site by fifty (50) percent or more; and~~
 - ~~c. For which no discretionary land use permit is required.~~

3. Accessory structures, which ~~meet all of the following:~~ have a gross floor area of four hundred (400) square feet or less, conform to all standards of the applicable zoning district, and do not require any discretionary land use permits.
 - ~~a. Do not extend more than fifteen (15) feet above grade;~~
 - ~~b. Have a gross floor area of four hundred (400) square feet or less; and~~
 - ~~c. For which no discretionary land use permit is required.~~

4. Roof-mounted solar panels that do not extend more than three (3) feet above the roofline of the structure on which they are mounted.

5. Properties located within a specific plan area, planned unit or Planned Development District, or master residential plan for which design review approval or design guidelines have been previously approved by the Planning Commission or City Council that provide exemptions from this chapter shall be subject to the requirements of the design criteria and procedures, if any, established for those districts or areas.

6. Work which has been determined by the Planning Director to be minor or incidental within the intent and objectives of this chapter, except for minor or incidental changes to historic structures (i.e., buildings situated on property zoned H, Combining Heritage Preservation District, or listed on the National Register or Larkspur’s Inventory of Historic Resources), which shall be reviewed by the Zoning Administrator in accordance with subsection (B) of this section.

7. Maintenance, repair or reconstruction of a structure pursuant to Larkspur Municipal Code Chapter 18.68.

8. Attached or detached accessory dwelling units unless Design Review is required under Larkspur Municipal Code Chapter 18.23.

~~B. Projects That Require Design Approval by the Zoning Administrator.~~
18.64.025 Review by the Zoning Administrator

A. Projects that require design review approval by the Zoning Administrator include:

- ~~1.~~ ~~Ground level single-story exterior remodels and additions to structures that increase the existing or previous floor area on the site by fifty (50) percent or more and are not subject to Planning Commission approval pursuant to subsection (C) of this section.~~
1. Second story additions, not to exceed three hundred (300) square feet in floor area, to an existing second floor of a two-story single-family or duplex residence.
2. Attached additions to, or detached accessory structures on, existing single-family or duplex property, which require a floor area ratio exception permit from the Larkspur Zoning Administrator pursuant to Larkspur Municipal Code Section 18.35.060.
3. Modification of an existing second story roofline where no new floor area is created.
- ~~24.~~ Accessory structures that have a gross floor area greater than four hundred (400) square feet, and for which no discretionary land use permit from the Planning Commission is required.
- ~~35.~~ Detached garages or carports located within the required front yard in areas of steep terrain pursuant to Larkspur Municipal Code Sections 18.20.070(A), 18.28.070(A), or 18.32.070(A) for which no discretionary land use permit from the Planning Commission is required.
6. Minor modifications to a commercial, office or industrial building, or any portion thereof, including but not limited to, individual retail storefronts where no addition is proposed.
- ~~47.~~ Projects involving new construction or changes to an existing structure for which a discretionary land use permit from the Zoning Administrator is required pursuant to Larkspur Municipal Code Section 18.06.020.
- ~~58.~~ Roof-mounted solar panels that extend more than three (3) feet above the roofline of the structure on which they are mounted, and ground-mounted solar panels or equipment that do not meet the setback and/or screening requirements in Larkspur Municipal Code Section 18.16.225(B)(2).
- ~~69.~~ Minor changes to the exterior of historic structures (i.e., buildings situated on property zoned H, Combining Heritage Preservation District, or listed on the National Register or Larkspur's Inventory of Historic Resources) such as, but not limited to, replacing windows, doors, molding, or siding, or changes in materials that do not significantly affect the historic or architectural character of the property based on the nature of the change, and, if necessary, a review by Larkspur's Historic Preservation Consultant.
10. Any project not specifically exempted under Section 18.64.020 or listed under Section 18.64.025 which the Planning Director determines shall be heard by the Zoning Administrator.

~~C.~~ ~~Projects That Require Design Approval by the Planning Commission.~~
18.64.030 Review by the Planning Commission

A. Projects that require design review approval by the Planning Commission include:

1. Any ~~new~~ or reconstructed single-family detached dwellings or duplexes which are two-story or exceed twenty (20) feet in height when measured in conformance with Larkspur Municipal Code Section 18.08.295, or the reconstruction of existing structures,

~~which do not meet the criteria for an exemption or Zoning Administrator review.~~

- ~~2.~~ Addition of a new second story of any size on an existing single-story residence.
- ~~23.~~ Second story additions Additions of three hundred and one (301) square feet or more to existing two-story single-family dwellings or duplexes, to single-family detached dwellings or duplexes, including remodels or reconstruction that add floor area which do not meet the criteria for an exemption or Zoning Administrator review.
- ~~4.~~ Attached additions to, or a detached accessory structure on, existing single-family or duplex property, which also requires a Floor Area Ratio Exception permit from the Larkspur Planning Commission pursuant to Larkspur Municipal Code Section 18.35.060
- ~~35.~~ Any multifamily residence, structure or combination of residences.
- ~~6.~~ Any addition to, or exterior alteration of, an existing multifamily residence, grouping of residential structures, or combination of residences.
- ~~47.~~ Any business or professional Office, commercial, and or industrial buildings and structures.
- ~~8.~~ Any addition to, or exterior alteration of, existing business and professional offices, commercial or industrial buildings and associated structures.
- ~~59.~~ Any proposed Ppublic or private assembly buildings and structures.
- ~~610.~~ Sign programs (as provided in Larkspur Municipal Code Chapter 18.60).
- ~~711.~~ Major changes to the exterior of historic structures (i.e., buildings situated on property zoned H, Combining Heritage Preservation District, or listed on the National Register or Larkspur's Inventory of Historic Resources) that do not qualify as minor under ~~subsection (B) of this section~~ subsection 18.64.025(A), including projects where only a building or demolition permit is required. Said changes shall include but are not limited to replacing windows, doors, molding, siding, changes in materials or any changes deemed by the Planning Director or Larkspur's Historic Preservation Consultant to significantly affect the historic or architectural character of the property.
- ~~812.~~ Projects involving new construction or changes to an existing structure for which a discretionary land use permit from the Planning Commission is required pursuant to this title.
- ~~13.~~ Any project not specifically exempted under Section 18.64.020 or listed under Section 18.64.025 which the Planning Director determines shall be heard by the Planning Commission.

Section 6. Environmental Clearance. The zoning text amendments as proposed above are exempt from environmental review under the California Environmental Quality Act (CEQA) Guidelines per Section 15061 (B) (3) as the revisions, in and of themselves, do not have the potential for causing a significant effect on the environment as they do not allow for any new or expanded uses not otherwise permitted under existing federal, state and local regulations.

Section 7. Severability. If any section, subsection, sentence, clause or phrase or word of this Ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Larkspur hereby declares that it would have passed and adopted this Ordinance and each and all sections, subsections, sentences, clauses, phrases and words thereof irrespective of the fact that any one or more of said sections, subsections, sentences, clauses, phrases or words be declared unconstitutional, unlawful or otherwise invalid.

Section 8. Effective Date of Publication. This Ordinance of the City of Larkspur shall be effective thirty (30) days after the date of its passage. Before expiration of fifteen (15) days after its passage, this Ordinance or a summary thereof as provided in California Government Code Section 36933, shall be published along with the names of the members of the City Council voting for and against its passage.

IT IS HEREBY CERTIFIED that the foregoing ordinance was duly introduced at a regular meeting of the Larkspur City Council held on October 7, 2020, and thereafter passed and adopted by the Larkspur City Council on October 21, 2020, by the following vote:

AYES: COUNCILMEMBER:
NOES: COUNCILMEMBER:
ABSENT: COUNCILMEMBER:
ABSTAIN: COUNCILMEMBER:

Catherine Way, Mayor

ATTEST:

Alison Foulis, City Clerk