



**CITY OF LARKSPUR
Staff Report**

February 6, 2019 City Council Meeting

DATE: January 28, 2019

TO: Honorable Mayor Morrison and the Larkspur City Council

FROM: Julian Skinner, Public Works Director

SUBJECT: WAIVE FIRST READING AND INTRODUCE ORDINANCES 1033 and 1034 AMENDING TITLE 15 (BUILDING REGULATIONS) OF THE LARKSPUR MUNICIPAL CODE TO MODIFY SECTION 15.32.070 AND ADD SECTION 15.32.075 FOR THE REGULATION OF EXCAVATIONS IN NEWLY PAVED STREETS

ACTION REQUESTED

That Council waive the first reading and introduce Ordinances 1033 and 1034.

SUMMARY AND BACKGROUND

With the passage of Measure C in 2013 the City of Larkspur started increasing its investment in maintaining its pavement infrastructure. This effort will be amplified in the coming years following the voter's approval of Measure B in 2017, which continues the sales tax revenue initiated with the initial measure, but at a higher rate to accelerate pavement repairs.

With pavement rehabilitation projects underway, the City Council adopted Ordinance 1001 in 2015 to preserve the integrity of newly paved streets from excavation and trenching. Studies have shown that the damage from excavating in a street is more than cosmetic even after a competent repaving of the excavated area. Trenching for utility replacements or repairs is often unavoidable; however, many agencies including Marin County, San Rafael, Novato, Mill Valley and Corte Madera have pavement cutting moratorium ordinances that restrict or limit such excavations in newly paved streets and require more substantial pavement restoration if exceptions to the restrictions are authorized to reduce the impacts of the cut.

The subject ordinance would modify existing LMC Section 15.032.070 to make the protections in force immediately after the paving versus after project acceptance as is currently codified, and to reference the pavement restoration standards to be codified in new LMC Section 15.032.075 for any cuts that may be authorized during the five-year protection period.

AGENDA ITEM 7.1A

Proposed LMC Section 15.032.075 codifies what was before contained in a separate exhibit subject to adoption by City Council and modifies and clarifies some of the restoration methods versus what was contained in the most recent exhibit.

DISCUSSION

The City of Larkspur maintains over 33 miles of street pavement. Pavement deteriorates over time from environmental conditions and traffic loading, but the lifetime of a street can be significantly impacted by excavations into the street such as trenching. Streets are designed with a specified life based on the anticipated impacts of the environment and traffic. In order to maintain eligibility for certain transportation funding, including those for street repair, agencies are required to develop Pavement Management Plans (PMPs) that map out how best to spend street repair funds over the entire agency street network. Development of a PMP includes analyzing current pavement conditions and predicting future deteriorations. After the amount of available funding is input, PMP software plans out which streets should be paved when.

While the PMP accounts for the expected pavement deterioration due to traffic and the environment, it does not account for any person-made impacts such as excavation/ trenching. The impacts of excavating into a street are well documented and countless agencies have commissioned studies to ascertain the financial impact of the same. When the surface of the street is patched after trenching work, it appears on the surface as a cosmetic flaw only, but the opening of the street leads to a relaxing of trench walls, and the integrity of the street is compromised well beyond the resulting surface patch. This leads to an acceleration in street failure.

In an effort to reduce the impacts of trenching and excavating in city streets, many agencies adopt policies requiring more stringent trench restorations for newly paved streets. These conditions often include paving over a larger area or an in-lieu fee that can be used to offset the reduced pavement life due to the cut. In addition, cities work closely with utility agencies to coordinate projects and advise of future paving schedules such that utilities have opportunity to excavate and repair/ replace facilities prior to city paving work.

The proposed ordinance continues the prohibition of excavations in newly paved streets for a period of five years after completion of the paving. It describes exceptions to the prohibition for emergencies and other situations in which there are no other reasonable alternatives. Paving requirements for exception cases are described for three classes of cuts, longitudinal, non-longitudinal and minor. In addition, the ordinance includes an option for an in-lieu fee to be paid at the discretion of the City Engineer.

FISCAL IMPACT

Pavement excavations have been shown to reduce overall pavement life. The City of Larkspur's PMP accounts for environmental and traffic loading impacts on streets and maps funding to streets based on their anticipated deterioration. The subject ordinance requires compensations for the added impacts excavations such as trenching have on city streets made in the form of more expansive street paving or an in-lieu fee. Absent such an ordinance, trenching in City streets will result in additional city costs to provide the same level of service, or reduced service (poorer quality streets.)

ENVIRONMENTAL STATUS

The proposed Municipal Code amendments are not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b) (3) and 15031(c) because there is no possibility that the proposed amendments will have a significant effect on the environment.

STAFF RECOMMENDATIONS

Staff recommends Council waive the first reading and introduce Ordinances 1033 and 1034.

Respectfully submitted,

Julian Skinner, Public Works Director

Attachments

1. Ordinance

**CITY OF LARKSPUR
ORDINANCE No. 1033**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LARKSPUR AMENDING
SECTION 15.32.070 OF THE LARKSPUR MUNICIPAL CODE ENTITLED "EXCAVATION OF
NEWLY PAVED STREETS"**

WHEREAS, the City of Larkspur maintains over 33 miles of street pavement;

WHEREAS, with the passage of Measure C in 2013, and Measure B in 2017, the City has increased its investment in maintaining its pavement infrastructure;

WHEREAS, pavement deteriorates over time from environmental conditions and traffic loading, as well as excavations into the street such as trenching;

WHEREAS, many agencies have pavement cutting moratorium ordinances that restrict or limit such excavations in newly paved streets and require more substantial pavement restoration if exceptions to the restrictions are authorized to reduce the impacts of the cut; and

WHEREAS, the proposed amendment to this section would put the pavement cutting moratorium into effect immediately after the paving versus after project acceptance as is currently codified.

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

Section 1: Recitals. The People of Larkspur find that the above Recitals are true and correct and are incorporated herein by reference.

Section 2: Amendment of Larkspur Municipal Code Section 15.32.070. Section 15.32.070 (Excavation of Newly Paved Streets) of the Larkspur Municipal Code is hereby amended to read as follows:

15.32.070 Excavation of Newly Paved Streets.

The City desires to regulate excavations and pavement cutting of newly constructed, reconstructed, paved, surfaced or resurfaced public rights-of-way by establishing the following regulations:

A. Excavations Prohibited. No excavation or pavement cutting shall be permitted in any public rights-of-way for a period of five years from the ~~date of recordation of a notice of completion for~~ construction, reconstruction, paving, surfacing, resurfacing or sealing ("pavement improvement") of the public rights-of-way, except as set forth in subsection (A)(1) of this section:

1. Excavation or pavement cutting may be approved by the City Engineer upon a finding by the City Engineer that such excavation or cutting is allowed ~~as an~~ due to an emergency or an exception, as set forth below.

a. The City Engineer shall find that a proposed excavation or pavement cutting is allowed due to be considered an emergency if the proposed excavation is necessary to

repair or replace underground facilities in order to prevent a disruption of services to customers or prevent injury or damage to life or property.

b. The City Engineer may approve an exception to the prohibition set forth in subsection (A)(1) of this section if the City Engineer finds that the excavation or cutting is required to provide essential utility services to a property where there are no other reasonable means of providing such services to the property or where the work is mandated by state or federal laws or orders and the excavation cannot be reasonably avoided.

2. In the event of an excavation permitted by subsection (A)(1) of this section, the affected rights-of-way shall be restored in accordance with the pavement excavation~~trench~~ restoration standards ~~adopted by resolution of the City Council, as the same may be amended from time to time~~ set forth in Larkspur Municipal Code Section 15.32.075.

B. Pavement Improvement List. The City will maintain a list of all newly constructed, reconstructed, paved, surfaced or resurfaced public rights-of-way. The list and map of the rights-of-way together with the date of completion for each pavement improvement project will be added on the City of Larkspur website. (Ord. 1001 § 1, 2015)

Section 3: Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 4: Effective Date and 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 at least once in a newspaper of general circulation published and circulated in the City of Larkspur, 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 February 6, 2019 and thereafter passed and adopted by the Larkspur City Council on February 20, 2019 by the following vote, to wit:

AYES: COUNCILMEMBER:

NOES: COUNCILMEMBER:

ABSENT: COUNCILMEMBER:

ABSTAIN: COUNCILMEMBER

MAYOR

ATTEST:

CITY CLERK
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