



**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 ITEMS 7.1 B

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. 1034**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LARKSPUR AMENDING THE
LARKSPUR MUNICIPAL CODE TO ADD A SECTION REGARDING REQUIREMENTS FOR
RESTORATION OF EXCAVATIONS IN 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 provisions detailed in this section describe the pavement restoration standards for any cuts that may be authorized during the five-year pavement moratorium period.

**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 Chapter 15.32. Chapter 15.32 (Encroachment of City Rights-of-Way) of the Larkspur Municipal Code is hereby amended to add new Section 15.32.075 (Requirements for Restoration of Excavations in Newly Paved Streets), to read as follows:

If excavation or cutting of pavement in the public right-of-way is allowed due to an emergency or exception as set forth in Larkspur Municipal Code Section 15.32.070, as a condition of approval of said emergency or exception excavation by the City Engineer, the permittee shall restore the pavement surface after cutting or trenching by one of the following methods, subject to approval by the City Engineer.

- A. For longitudinal trench cuts (parallel with the street centerline), surface restoration shall include removal and replacement of the surface layer of asphalt to a minimum depth and thickness of two inches for the full length of the trench cut, plus a minimum of five feet on either end of the cut, and for a total length of not less than forty feet. The remove and replace limits shall extend from face of curb to centerline, or face of curb to face of curb for pavement widths of less than 24'.
- B. For non-longitudinal trench cuts (pits, patches or perpendicular to the street centerline), surface restoration shall include removal and replacement of the surface layer of asphalt to a minimum depth and thickness of two inches for the full length of the lot/ parcel frontage associated with the permitted work or immediately adjacent to the work.

The remove and replace limits shall extend from face of curb to centerline for cuts completely contained on one side of street centerline and face of curb to face of curb for cuts that cross the centerline.

- C. For pavement restoration cases (A) and (B) above, all other components of the restoration shall conform to Uniform Construction Standards – All Cities and County of Marin (MCUCS), with the structural section street repair extending 24” beyond every trench wall per MCUCS Drawing NO. 330.
- D. For pavement cuts that do not include mechanical excavation and that result in less than 2’ x 2’ pits (such as hydro/ vacuum potholing), standard MCUCS trench restorations will be allowed with the payment of a \$500 in-lieu fee per pit.
- E. At the discretion of the City Engineer, for cuts described in (A) and (B), the City may charge a fee in-lieu of the additional pavement restoration. The in-lieu fee charged will be determined on the nature of the emergency/ exception and age of the paving. The minimum in-lieu fee charged will be \$500. The maximum in-lieu fee charged will be the sum of the products of the calculated square footage of pavement grinding and tonnage of asphalt per (B) or (B) as applicable and the most recent unit prices for this work paid by the City on a publicly advertised project, plus an administrative charge of 20%. If the in-lieu fee is applied, the excavation shall be repaired by the permittee per MCUCS with the structural section street repair extending 24” beyond every trench wall per MCUCS Drawing NO. 330.

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