

TO: JAMES L. APP, CITY MANAGER
FROM: ROBERT A. LATA, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: CODE AMENDMENT 03-001 (IN-LIEU FEES FOR SIDEWALK WAIVERS AND PARTIAL STREET IMPROVEMENTS)
DATE: MARCH 4, 2003

Needs: For the City Council to consider the proposed Code Amendment establishing in-lieu fees for sidewalk waivers and partial street improvements.

- Facts:
1. The City Council has directed that a Code Amendment be initiated to establish in-lieu fees to implement the provisions of the Circulation Element of the General Plan.
 2. A Program Element of the Circulation Master Plan of the General Plan calls for establishment of an in-lieu fee for sidewalk waivers and partial street improvements required as a condition of building permit issuance.
 3. At its January 28, 2003 meeting, the Planning Commission reviewed the proposed Code Amendment and recommended that it be approved.
 4. Code Amendment CA 03-001 is exempt from environmental review pursuant to Section 15061(b) (3) of the State California Environmental Quality Act Guidelines (CEQA).

Analysis
And Conclusions:

The proposed Code Amendment implements the City's goals as expressed in the Circulation Element of the General Plan. It does so by providing the decision-making body responsible for approving a new development project with the authority to waive and/or modify required sidewalk and partial street improvements subject to payment of an in-lieu fee.

It is reasonable to provide the City with the ability to require payment of an in-lieu fee:

- For a waiver of requirements for installation of curb, gutter, sidewalk, and driveway when so waived by action of the Planning Commission; and,
- For a modification of required street improvements when so modified by action of the City Council.

The in-lieu fee for a specific project is to be based on a calculation by the City Engineer of the improvement that is being waived or modified.

Policy
Reference:

General Plan, Zoning Ordinance, Municipal Code, City Standard Specifications and Details

Fiscal

Impact: Positive. The City will receive funds to pay for required sidewalk rehabilitation, maintenance, and new construction and to pay for required street rehabilitation, maintenance, and new construction.

Options:

A. For the City Council to:

Introduce for First Reading Ordinance No. XXX N.S. amending Title 11 (Streets and Sidewalks) of the Municipal Code establishing in-lieu fees for sidewalk waivers and installation of partial street improvements

B. Request additional information and analysis.

C. Amend, modify, or reject the foregoing options.

Attachments:

Draft Ordinance Adopting Code Amendment 03-001 (In-Lieu Fees)
Newspaper Affidavit

ORDINANCE NO. XXX N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
AMENDING TITLE 11, STREETS AND SIDEWALKS, OF THE MUNICIPAL CODE
ESTABLISHING IN-LIEU FEES FOR SIDEWALK WAIVERS AND INSTALLATION OF PARTIAL
STREET IMPROVEMENTS
(CODE AMENDMENT 03-001)

WHEREAS, a Program Element of the Circulation Master Plan of the General Plan calls for establishment of an in-lieu fee for sidewalk waivers and partial street improvements required as a condition of building permit issuance; and

WHEREAS, the City Council has directed that a Code Amendment be initiated to establish in-lieu fees to implement the provisions of the Circulation Element of the General Plan; and

WHEREAS, it is reasonable to provide the City with the ability to require payment of an in-lieu fee:

- For a waiver of requirements for installation of curb, gutter, sidewalk, driveway apron, and street paving when so waived by action of the Planning Commission; and,
- For a modification of required street improvements when so modified by action of the City Council.

WHEREAS, Code Amendment CA 03-001 is exempt from environmental review pursuant to Section 15061(b) (3) of the State California Environmental Quality Act Guidelines (CEQA).

WHEREAS, at its meeting of January 28, 2003, the Planning Commission took the following actions:

- a. Considered the facts and analysis presented in the staff report and associated materials prepared for the proposed Code Amendment.
- b. Conducted a public hearing to obtain public testimony on the CEQA Exemption and the proposed Code Amendment.
- c. Recommended that the City Council approve the CEQA Exemption and the proposed Code Amendment.

WHEREAS, at its meeting of March 4, 2003, the City Council took the following actions:

- a. Considered the facts and analysis presented in the staff report and associated materials prepared for the proposed Code Amendment.
- b. Considered the recommendation of the Planning Commission on the CEQA Exemption and the proposed Code Amendment.
- c. Conducted a public hearing to obtain public testimony on the CEQA Exemption and the proposed Code Amendment.

NOW, THEREFORE, BE IT KNOWN that the City Council of the City of El Paso de Robles, based upon the substantial evidence presented at the afore-mentioned public hearing, including oral and written staff reports, finds as follows:

1. The afore-mentioned facts of the Code Amendment are true and correct.
2. The Code Amendment is exempt from environmental review.
3. The Code Amendment is consistent with the City's General Plan in that it implements Policy CE-1, Circulation Master Plan, of the Circulation Element.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 11.12.030D (Waiver of Requirements) of Chapter 11.12 (Construction of Sidewalks, Curbs, and Gutters) of the Municipal Code is hereby amended to read as shown on Exhibit A.

SECTION 2. A new Chapter, 11.40 (Modification of Street Improvement Requirements), is hereby added to Title 11 (Streets and Sidewalks) of the Municipal Code to read as shown on Exhibit A.

SECTION 3. Publication. The City Clerk shall cause this Ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

SECTION 4. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this Ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 5. Inconsistency. To the extent that the terms of provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 6. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

Introduced at a regular meeting of the City Council of the City of El Paso de Robles held on March 4, 2003, and passed and adopted on the 18th day of March 2003 by the following roll call vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

EXHIBIT "A"

TO ORDINANCE NO. XXX N.S.

AMENDING TITLE 11, STREETS AND SIDEWALKS, OF THE MUNICIPAL CODE
ESTABLISHING IN-LIEU FEES
FOR SIDEWALK WAIVERS AND PARTIAL STREET IMPROVEMENTS
(CODE AMENDMENT 03-001)

SECTION 1. Section 11.12.030D (Waiver of Requirements) of Chapter 11.12 (Construction of sidewalks, curbs and gutter) is hereby amended to read as follows:

"In the event the construction of the sidewalk is not feasible due to street locations, hardship due to fire or acts of God, topography or other physical factors, the planning commission, after hearing the recommendation of the city engineer, may waive, or modify the provisions of the chapters that apply to sidewalks, curbs, gutters, driveway aprons, and street paving upon application of the owner of the property or other persons to whom this chapter may apply.

In granting a waiver, the planning commission shall require payment of an in-lieu fee for construction of sidewalks, curbs, gutters, driveway aprons, and street paving. The granting of a waiver by the planning commission for a specific improvement involving issuance of a building permit for the construction, repair, addition, or alteration of any structure within the City of El Paso de Robles does not otherwise exempt subsequent projects and new improvements for which a building permit is sought from the requirement for installation of sidewalk, curb, gutter, driveway apron, and street paving pursuant to Section 11.12.030 (Required – Curb, gutter, sidewalk, driveway aprons). The cumulative value of the in-lieu fee payment and that of any improvements installed on the property shall not exceed the cost of the amount of the required improvements to be made per Title 11 (Streets and Sidewalks) of the Municipal Code.

Payment of the in-lieu fee is to be made to the City prior to the issuance of building permit and/or grading permit as appropriate. The in-lieu fee is to be deposited, invested, accounted for and expended pursuant to California Government Code Section 66006.

The revenue raised by payment of the in-lieu fees shall be placed in a separate and special account and such revenues, along with any interest earning on the account, shall be expended solely to fund sidewalk maintenance, rehabilitation, and construction as set forth in the City's Budget and the City's Capital Improvement Program.

The in-lieu fee is to be calculated by the City Engineer based the City's adopted per unit prices for standard items of construction. The in-lieu fee is necessary in order:

- To fund needed sidewalk maintenance, rehabilitation, and construction improvements (including curbs, gutters, driveway aprons, and street paving) to the City's circulation system.
- To reduce the cumulative impacts on the City's circulation system caused by new development.
- To ensure that new development mitigates its share of the circulation impacts it creates.

The in-lieu fee is apportioned to new development based on the City Engineer's calculation of the cost estimate of the construction of the required sidewalk, curb, gutter, driveway apron, and street paving required for the new development."

SECTION 2. A new Chapter, 11.40 (Modification of Street Improvement Requirements) is hereby added to Title 11 (Streets and Sidewalks) to read as follows:

"In the event the construction of required street improvements is not feasible due to street locations, hardship due to fire or acts of God, topography, or other physical factors, the city council, after hearing the recommendation of the city engineer, may waive or modify the provisions of the Municipal Code chapters that apply to street improvement requirements and/or the provisions of the City Standard Details and Specifications for Streets, upon application of the owner of the property or other persons to whom the provisions may apply.

In granting a waiver or modification of required street improvements, the city council shall require payment of an in-lieu fee for construction of these improvements in whole or part as may be appropriate. The granting of a waiver or modification by the city council for a specific improvement involving issuance of a building permit for the construction, repair, addition, or alteration of any structure within the City of El Paso de Robles does not otherwise exempt subsequent projects and new improvements for which a building permit is sought from the requirement for installation of required street improvements. The cumulative value of the in-lieu fee payment and that of any improvements installed on the property shall not exceed the cost of the amount of the required improvements to be made per Title 11 (Streets and Sidewalks) of the Municipal Code.

Payment of the fee is to be made to the City prior to the issuance of building permit and/or grading permit as appropriate. The in-lieu fee is to be deposited, invested, accounted for and expended pursuant to California Government Code Section 66006.

The revenue raised by payment of the in-lieu fees shall be placed in a separate and special account and such revenues, along with any interest earning on the account, shall be expended solely to fund street improvements, including maintenance, rehabilitation, and construction, as set forth in the City's Budget and the City's Capital Improvement Program.

The in-lieu fee is to be calculated by the City Engineer based the City's adopted per unit prices for standard items of construction. The in-lieu fee is necessary in order:

- To fund needed street improvements (including maintenance, rehabilitation, and new construction) to the City's circulation system.
- To reduce the cumulative impacts on the City's circulation system caused by new development.
- To ensure that new development mitigates its share of the circulation impacts it creates.

The in-lieu fee is apportioned to new development based on the City Engineer's calculation of the cost estimate of the required street improvements (in whole or part, as may be appropriate)."