

ORDINANCE NO. 04-2025

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING THE OLD TOWN SPECIAL PLANNING AREA RELATIVE TO BARS,
BREWERIES, WINERIES, AND BREW PUBS**

WHEREAS, the City of Elk Grove Old Town Special Planning Area (OTSPA) Design Standards and Guidelines were adopted by the City Council on August 10, 2005, superseding the original OTSPA that was originally adopted by the County of Sacramento in 1985; and

WHEREAS, the OTSPA requires a regular review to keep the regulations current and relative to City objectives for the area and responsive to market conditions; and

WHEREAS, staff recommends that certain modifications be made to the footnotes of allowed use listings in the OTSPA; and

WHEREAS, Section 15162 of Title 14 of the California Code of Regulations (State CEQA Guidelines) identifies that when a Negative Declaration has been adopted for a project, no subsequent analysis shall be prepared unless, on the basis of substantial evidence in light of the whole record, one or more conditions apply; and

WHEREAS, State CEQA Guidelines Section 15183 identifies that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site; and

WHEREAS, the Planning Commission held a duly-noticed public hearing on October 17, 2024, as required by law to consider all of the information presented by staff and public testimony presented in writing and at the meeting and voted 5-0 to recommend approval of the OTSPA Amendments to the City Council; and

WHEREAS, the City Council held a duly-noticed public hearing on November 13, 2024, as required by law to consider all of the information presented by staff and public testimony presented in writing and at the meeting; and

WHEREAS, the City Council continued consideration of the proposed amendments to February 12, 2025, to receive additional information presented by staff and public testimony presented in writing and at the meeting.

NOW, THEREFORE, the City Council of the City of Elk Grove does hereby ordain as follows:

Section 1: Purpose and Authority

The purpose of this Ordinance is to amend the Old Town Special Planning Area Design Standards and Guidelines relative to bars, breweries, wineries, and brew pubs.

Section 2: Findings

CEQA

Finding: The City Council finds that no further environmental review is necessary under CEQA pursuant to State CEQA Guidelines Section 15162 (Subsequent EIRs and Negative Declarations) and Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

Evidence: CEQA requires analysis of agency approvals of discretionary “projects.” A “project,” under CEQA, is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” The approval of this action is a project under CEQA.

The Old Town SPA was analyzed in a prior Negative Declaration adopted by the City Council on July 27, 2005 (SCH# 2005042159). That document considered development within the SPA pursuant to the standards proposed at that time, including but not limited to density and intensity of development, setbacks, building height, allowed uses, signage, and landscaping. The Negative Declaration concluded that the proposed 2005 changes would not result in any significant impacts to noise, utilities, land use, traffic, and public services, among others. Specifically, the Negative Declaration noted that the SPA includes standards that address the potential noise impacts from outdoor activities and that there would be no significant impacts related to utilities and service systems.

CEQA Guidelines Section 15162 provides that when a Negative Declaration has been adopted for a project, no subsequent analysis shall be prepared unless, on the basis of substantial evidence in light of the whole record, one or more of the following apply:

1. Substantial changes are proposed in the project which will require major revisions of the previous CEQA analysis due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous CEQA analysis due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with exercise of reasonable diligence at the time of the previous CEQA analysis was adopted as complete shows any of the following:
 - a. The project will have one or more significant on discussed in the previous CEQA analysis;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous CEQA analysis;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

- d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous CEQA analysis would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measures or alternative.

Staff has reviewed the proposed amendments relative to bars, breweries, wineries, and brew pubs against the 2005 Negative Declaration. While the proposed changes would provide opportunities for the approval of these uses subject to approval of a conditional use permit, the changes would not alter the density or intensity of development considered in the prior Negative Declaration. Additionally, the conditional use permit process will allow for the review of subsequent specific permit requests to address issues relative to noise, utilities, and other factors, as documented in the Negative Declaration.

Additionally, staff finds that no further environmental review is required under State CEQA Guidelines Section 15183 (Consistency with a General Plan, Community Plan, or Zoning). State CEQA Guidelines Section 15183 (Public Resources Code §21083.3) provides that projects which are consistent with a Community Plan, General Plan, or Zoning for which an environmental impact report (EIR) has been certified “shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.”

In February 2019, an EIR was prepared and certified (SCH# 2017062058) by the City Council as part of the Elk Grove General Plan Update. The updated General Plan introduced Vehicle Miles Travelled (VMT) as the metric to determine environmental impacts related to transportation. The City’s Transportation Analysis Guidelines (TAG) are used to determine if and what type of transportation analysis is necessary for specific development projects. The 2019 update also introduced new required mitigation measures to address potential impacts to cultural and historic resources. These mitigation measures were recently updated in 2023. While this Project does not approve any specific development, any future CUPs submitted pursuant to the proposed OTSPA Amendments would comply with the General Plan’s cultural and historic resource mitigation measures and the TAG would be used to determine if transportation analysis would be necessary.

The proposed amendment to allow three additional CUPs for bars, breweries, wineries, or brew pubs will not increase the density of development within Old Town as designated through the existing General Plan land use designations and as implemented by the design, development, and lands use standards of the OTSPA. The CUP for such uses is already allowed and any future CUP requests must comply with the existing development standards that address building setbacks, height, parking, and residential density; therefore, the amendment will be consistent with the development density established by the General Plan as regulated by the OTSPA. Additionally, for the Old Town Land Use Policy Area, the General Plan states that the development of an activity center with regional shopping and entertainment opportunities is part of the City’s vision for Old Town. The development of bars, breweries, wineries, and brew pubs aligns with the City’s goals of furthering economic activity in Old Town, attracting people to the area, and leading to ancillary activity for nearby uses.

There have been no substantial changes to the SPA or the surrounding environment since approval of the Negative Declaration, and no substantial changes have occurred with respect to the circumstances under which the SPA was adopted in 2005. Further, no new information has been identified. Therefore, the prior Negative Declaration and EIR are sufficient to support the proposed action and pursuant to State CEQA Guideline Sections 15162 and 15183, no further environmental review is required.

General Plan Consistency

Finding: The proposed Old Town Special Planning Area amendments are consistent with the General Plan goals, policies, and implementation programs.

Evidence: The proposed amendment will not require any change to the General Plan Land Use Designation Map, nor will the amendments result in an increase to the density or intensity of development allowed within the OTSPA. The land use category “Commercial – Bars, Breweries, Wineries, and Brew Pubs” is an existing category. No amendments are proposed to the definition of this land use category within the OTSPA; however, the allowance for the total number of such businesses in the OTSPA in this category is proposed to be increased from three to six. Furthermore, of the Old Town Land Use Policy Area, the General Plan states that the development of an activity center with regional shopping and entertainment opportunities is part of the City’s vision for Old Town. The development of bars, breweries, wineries, and brew pubs aligns with the City’s goals of furthering economic activity in Old Town, attracting people to the area, and leading to ancillary activity for nearby uses.

Finding: The proposed Old Town SPA amendments meet the requirements set forth in this title.

Evidence: The proposed amendments to the Old Town SPA will satisfy and maintain the requirements of Elk Grove Municipal Code Section 23.16.100 (Special Planning Area), as well as Section 23.40.020 (Special Planning Area District). All development standards established within the Old Town SPA will apply to any future development within the boundaries of the SPA.

Finding: The Old Town SPA Amendment is needed because the existing zoning requirements do not allow for the establishment of more than three bars, breweries, wineries, and brew pubs in the commercial areas of Old Town.

Evidence: Since adoption of the Ordinance in 2018 that established the three CUP limit, three CUPs have been approved including Hungry Pecker Brewing Company (now Coatza Brewing Co.) in February of 2019; Dust Bowl Brewing Co. in September of 2021; and Old Town Pub in July of 2024. At this time, the City may not issue any additional CUPs for bars, breweries, wineries, or brew pubs within the OTSPA. Staff is aware of several businesses that are seeking to include alcohol sales/tasting in the OTSPA. Some of these businesses would not need a CUP as a restaurant serving alcohol, but other uses, such as a wine tasting facility for local wineries, would require a CUP. Increasing the CUP limit in the OTSPA to

six would allow Planning staff to review additional CUP requests and make the appropriate recommendations to the Planning Commission. The development of bars, breweries, wineries, and brew pubs within the OTSPA aligns with the City's goals of furthering economic activity in Old Town, attracting people to the area, and leading to ancillary activity for nearby uses.

Section 3: Amendment to the Old Town Special Planning Area

Footnote No. 12 to Table 2 Permitted and Conditionally Permitted Land Uses of the Old Town Special Planning Area is amended to read as follows:

Changes are shown with deletions in ~~strikeout~~ and additions in underline.

12. Only ~~three (3)~~ six (6) conditional use permits for bars, breweries, wineries, and brew pubs may be authorized within the Old Town SPA at any one time. Pursuant to EGMC Chapter 23.18, an approved conditional use permit shall be executed within three (3) years from the date of approval, unless an extension is otherwise approved as provided in EGMC Section 23.18.060 (Permit Extension). Notwithstanding the provisions of EGMC Section 23.20.020 or any other law, should an approved bar, brewery, winery, or brew pub holding a valid conditional use permit cease or discontinue operations for a period of one year or more, the designated approving authority may, upon completion of a noticed public hearing, revoke the conditional use permit due to discontinuation of use. In lieu of a formal revocation, a property owner with a valid conditional use permit for a bar, brewery, winery, or brew pub may voluntarily surrender the conditional use permit upon written notice to the City.

Section 4: No Mandatory Duty of Care

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 5: Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 6: Savings Clause

The provisions of this ordinance shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and effect to all intents and purposes as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally

incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by said Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

Section 7: Effective Date and Publication


This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

ORDINANCE: **04-2025**
INTRODUCED: February 12, 2025
ADOPTED: February 26, 2025
EFFECTIVE: March 28, 2025




BOBBIE SINGH-ALLEN, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

Date Signed: March 4, 2025

CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 04-2025

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing ordinance, published and posted in compliance with State law, was duly introduced on February 12, 2025, and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on February 26, 2025, by the following vote:

AYES: **COUNCILMEMBERS:** *Singh-Allen, Robles, Brewer, Spease, Suen*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN: **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *None*

A summary of the ordinance was published pursuant to GC 36933(c) (1).



Jason Lindgren, City Clerk
City of Elk Grove, California