

ORDINANCE NO. 15-2021

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING THE OLD TOWN SPECIAL PLANNING AREA FOR TATTOO AND PIERCING STUDIOS

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

WHEREAS, the Old Town SPA 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 allowed use listing in the Old Town SPA; and

WHEREAS, Section 15162 of Title 14 of the California Code of Regulations (State CEQA Guidelines) 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 conditions apply; and

WHEREAS, the Planning Commission held a duly-noticed public hearing on June 17, 2021, 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 to the City Council; and

WHEREAS, the City Council held a duly-noticed public hearing on July 28, 2021, as required by law to consider all of the 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

The purpose of this Ordinance is to amend the Old Town Special Planning Area to allow tattoo and piercing studios upon approval of a conditional use permit.

Section 2: (Findings)

California Environmental Quality Act (CEQA)

Finding: No further environmental review is required under CEQA pursuant to State CEQA Guidelines section 15162.

Evidence: The Old Town SPA was analyzed in a prior Negative Declaration adopted by the City Council on July 27, 2005. 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 effects not 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 tattoo and piercing studios 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 (CUP), the changes would not alter the density or intensity of development considered in the prior Negative Declaration. Standards remain to address issues relative to noise, utilities, and other factors, as documented in the Negative Declaration. 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, pursuant to CEQA Guidelines Section 15162, no further environmental review is required

Old Town SPA Amendments

Finding: The proposed Old Town SPA amendments are consistent with the goals, policies, and objectives of the General Plan.

Evidence: The proposed amendments will not require any change to the General Plan Land Use Designation Map. The new addition of the land use category “Commercial – Tattoo and Piercing Studios” is consistent with the General Plan land use designation of Commercial, where such uses would be located.

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 Chapter 23.16 (Permit Requirements), 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 tattoo and piercing studios in the commercial areas of Old Town.

Evidence: The establishment of the Old Town SPA is merited as the Zoning Code’s development regulations are not compatible nor suited in preserving the existing development layout, historical character, and small-town atmosphere of Old Town. Old Town Elk Grove is unique as it is one of the oldest western settlements in the greater Sacramento region. The influence of Old Town’s distinctive development pattern is reflected in the completion of the Sacramento-Stockton line of the Central Pacific Railroad in 1868. The continual preservation of the historical buildings and architecture have been recognized, which resulted in the original adoption of the SPA by Sacramento County in 1985, with subsequent amendments in 1989, 1991, 1994, and 1997. The City of Elk Grove updated the SPA in 2005 for the continual preservation and enhancement of existing historical resources of Old Town Elk Grove by establishing and maintaining development standards and guidelines that are tailored to preserving the historical layout, character, and small town atmosphere.

The proposed amendment to allow tattoo and piercing studios is consistent with the SPA’s goal to preserve the development layout, historical character, and small-town atmosphere of Old Town. Any CUP for tattoo and piercing studios would be subject to the development standards and guidelines as they exist in the current SPA. Furthermore, any of the two CUPs allowed under the proposed amendment would allow conditions to be placed on these studios such that they would operate consistent with the goals of the SPA.

Section 3: Action

The Old Town Special Planning Area is amended as provided in Exhibit A, attached hereto and incorporated herein by this reference.

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 affect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and affect 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

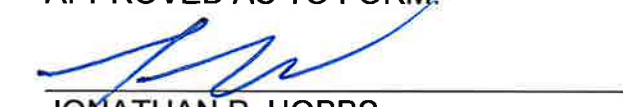
This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council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

ORDINANCE: 15-2021
INTRODUCED: July 28, 2021
ADOPTED: August 11, 2021
EFFECTIVE: September 10, 2021


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: August 11, 2021

Exhibit A
Old Town Special Planning Area Amendments

Table 2 of the Old Town Special Planning Area is amended to read as follows. Changes are shown in track changes with deletions in ~~strikeout~~ and additions in underline.

Table 2 – Permitted and Conditionally Permitted Land Uses

	P = Use Permitted CUP = Conditional Use Permit Required	Single Family Residential	Multi-Family Residential	Commercial 8, 9, 10
1.	Single Family and Duplexes (≤ 6 units / acre)	P¹		
2.	Multi-Family – Single Use		P²	
3.	Multi-Family – Mixed Use (as 2nd or 3rd Floor Residential)			P³
4.	Home Occupation	P⁴		
5.	Residential Care Home	P⁴		
6.	Commercial – General Retail Including antique, apparel, appliance, book and stationery, camera, camping equipment, department, fabric, furniture, gift shop, luggage and leather goods, paint, pet, nursery, music, stereo (no installation), secondhand, shoe, sporting goods, variety/merchandise.			P^{5, 6}
7.	Commercial – Automotive Accessory Services Including automotive accessory services such as window tinting, detailing, stereo installation and automotive body accessories. Services such as automotive sales, automotive repair, muffler and radiator shops, collision repair and/or painting, quick-lube, and smog check are not permitted uses.			P
8.	Commercial – Personal Services Including repair of appliances or household items, banks, barber shop, beauty shop, bicycle shop, dry cleaners, printing, photographic studio, shoe repair, tailor shop, travel agency.			P⁶
9.	Commercial – Convenience Including bakery, candy, delicatessen, drug store, florist, grocery store, hardware, hobby and crafts, restaurants, coffee shops.			P⁶
10.	Commercial – Entertainment Including performing arts such as theater, music, drama, dance, musical, comedy, and play house.			CUP^{7,11}
11.	Commercial – Bars, Breweries, Wineries, and Brew Pubs Includes a range of establishments engaged in the sale of alcoholic beverages, including bars, taverns, pubs, brew pubs, and similar establishments, including: <ul style="list-style-type: none"> Establishments with alcoholic beverage sales for on-site consumption where any food service (if provided, though not required) is subordinate to the sale of alcoholic beverages (typically includes State Alcohol License Types 40, 42, and 48). For uses where food sales are not subordinate to alcoholic beverage sales, see 'Commercial-Convenience'. 			CUP^{11, 12}

	<ul style="list-style-type: none"> Establishments with alcoholic beverage sales for on- and off-site consumption or tasting, with or without food service, of products produced on-site or off-site pursuant to State licensing (typically includes State Alcohol License Types 02 and 23). Any of the above may include outdoor food and beverage areas. 			
12.	Commercial – Tattoo and Piercing Studios <u>Establishments engaged in the business of tattooing, body piercing, and/or the application of permanent cosmetics as provided under California Health and Safety Code Section 119300, et seq.</u>			<u>CUP¹³</u>
4213.	Commercial - Indoor Recreation Including bowling alley, billiard parlor, ice/roller skating rinks, indoor racquetball courts, indoor climbing facilities, soccer areas, gymnastic studios, athletic clubs and health clubs.			P
4314.	Commercial - Cultural Including art galleries and museums			P⁷
4415.	Commercial – Offices Including both general and medical office or clinic.			P
4516.	Public Parking Facilities A parking lot or parking structure used for parking motor vehicles where the facility is the primary use of the site. Parking structures and lots that are developed in conjunction with another primary use of the site to satisfy the on-site parking requirements for the development are not included in this definition.			P
4617.	Assembly Uses	CUP¹¹		

The commercial permitted uses listed in Table 2 are non-exclusive. Similar commercial uses not specifically listed may be permitted upon review by the Planning Director-see Note 8 below.

Notes:

- May include accessory uses and structures subject to the development standards in the Zoning Code.
- Mixed-use development is permitted in Multi-Family Residential zones located along Elk Grove Boulevard subject to Note 3 below. A single-family residential unit is allowed to be located on the 2nd floor with the condition that the ground floor is a pedestrian oriented commercial use (i.e. retail, restaurant, or office).
- Buildings used for 2nd or 3rd floor residential must be used for pedestrian oriented commercial uses on the ground floor (i.e. retail, restaurant, or office). The permitted density of 2nd or 3rd floor residential shall not exceed 30 units per acre, and shall be dependent on compliance with development standards. See Figure 3 for a mixed-use development example.
- Subject to the development standards in the Zoning Code for such uses.
- Sale of animals is not permitted if the proposed site shares a common wall with an adjoining use.
- Drive-throughs are expressly prohibited.
- Subject to General Plan noise restrictions.
- Determination of Use Not Listed.

Where a use is not specifically listed in Table 2 as a permitted or conditionally permitted use within the zone, the Planning Director shall determine whether the use is sufficiently similar to a listed use such that the use may be processed and approved as provided for in the Old Town SPA or that it is not sufficiently similar and would require an amendment of the Old Town Special Planning Area Design Standards and Guidelines planning document to permit the use.

In making the determination, the Planning Director shall base the determination on a consideration of the following factors:

- a. The extent to which the proposed use would meet the objectives and goals of the Old Town SPA to encourage pedestrian oriented retail, restaurant, and office uses; and,
- b. The extent to which the proposed use would be compatible with the uses currently permitted in the Commercial Zone under Table 2; and,
- c. The ability of the City to condition the operation of such uses to adequately mitigate any potential inconsistencies with the objectives and goals of the Old Town SPA and operation of uses currently permitted in the Commercial Zone and the commercial component for mixed-use developments as permissible within Multi-Family Zones identified in Table 2; and,

If, based on consideration of the above-referenced factors, the Planning Director determines that the use is sufficiently similar to a listed use, then the use shall be considered to be included within the category of the use listed. A written record of the Planning Director's decision for either approval or denial shall be kept on file with the Planning Department.

9. Personal Services-Restricted uses, Industrial uses, and Automotive Repair or Maintenance Servicing uses are not permitted in the Commercial Zone. Existing industrial and automotive repair or maintenance servicing uses classified as "Restricted Commercial" may continue subject to the provisions established in Section I(F).
10. Chapter 23.70 of the Municipal Code titled Adult Oriented Businesses shall apply for the application of a use that includes an adult component as defined in Section 23.70.020.
11. Subject to the permit requirements as established in the Zoning Code (Section 23.16.070).
12. Only three (3) 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.
13. Only two (2) conditional use permits for tattoo and piercing studios 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 tattoo and piercing studio 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 tattoo and piercing studio may voluntarily surrender the conditional use permit upon written notice to the City.

Continued on next page

Table 6 of the Old Town Special Planning Area is amended to read as follows. Changes are shown in track changes with deletions in ~~strikeout~~ and additions in underline.

Table 6 – Parking Requirements

Land Use	Require Parking Spaces
Residential Uses	
Single-Family	Residential uses shall comply with the parking requirements established in the Zoning Code
Multi-Family	
Commercial Uses	
General Retail	1 space/500 sf.
Automotive Accessory Services	1 space per service bay
Personal Services Listed uses except Athletic Club Athletic Club	1 space/500 sf. 4 space/1,000 sf.
Convenience	1 space/500 sf.
Entertainment	1 space/600 sf.
Bars, Breweries, Wineries, and Brew Pubs	1 space/600 sf. ¹
<u>Tattoo and Piercing Studios</u>	<u>1 space/500 sf.</u>
Indoor Recreation	1 space/600 sf.
Cultural	1 space/600 sf.
Offices	1 space/500 sf.
Assembly Uses	Greater of: 1 space per 6 fixed seats or 1 space/150 sf.
Notes:	
1. The area used for calculating required parking spaces shall not include any area that meets both of the following criteria: (1) area used for the brewing, fermenting, ageing, and processing of beer or wine; and (2) area where customers are generally not permitted.	

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CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 15-2021

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 July 28, 2021, and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on August 11, 2021, by the following vote:

AYES: COUNCILMEMBERS: Singh-Allen, Nguyen, Hume, 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