

RESOLUTION NO. 2015-081

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, MAKING A DETERMINATION OF PUBLIC CONVENIENCE AND NECESSITY FOR A RENT SERVICE VEHICLE (PEDI-CAB) TO OPERATE WITHIN THE CITY LIMITS

WHEREAS, the City Council has adopted Ordinance No. 584 establishing guidelines for making Public Convenience and Necessity Determination for vehicle rent services; and

WHEREAS, on April 30, 2015, Kathleen Wright applied to the City for a Public Convenience and Necessity Determination; and

WHEREAS, on July 7, 2015 the City Council determined that allowing the pedi-cab service to operate in the City of Calistoga will serve as a public convenience and necessity based on the following findings:

1. There is a public demand for additional vehicle for hire service. In Calistoga, there are limited types of vehicle services within the community. The additional service will provide transportation between downtown, visitor accommodations, and tasting rooms within the city limits. Also, the proposed pedi-cab service would provide enhance the visitor's experience in Calistoga.
2. The proposed pedi-cab service has the potential to reduce traffic impacts in downtown Calistoga. Rather than each individual driving their own vehicles in downtown, the proposed pedi-cab service could get people out of their individual vehicles and promote a safe alternative transportation with zero gas emissions.
3. The proposed pedi-cab service includes appropriate and adequate procedures for operation including the types of equipment, financial responsibilities, maintenance and protection of equipment and will not have any adverse health and safety impacts.

WHEREAS, the operations of the pedi-cab service shall be substantially in conformance with Chapter 5.16 of the Calistoga Municipal Code.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Calistoga that based upon evidence presented during referenced meeting, including written and oral staff reports and public testimony, and subject to the provisions of the staff recommendations, the City Council made a Public Convenience and Necessity Determination for the pedi-cab service in the City of Calistoga, subject to the following conditions:

1. This Public Convenience and Necessity Determination authorizes only one (1) pedi-cab as described in the application submittal documentation. Any proposed expansion of operation will require a subsequent Public Convenience and Necessity Determination unless approved by the Planning and Building Director.
2. No pedi-cab stand shall be permitted as a result of this approval. If a pedi-cab stand

is desired in the future, all provisions of Section 5.16.110 of the Calistoga Municipal Code shall be met.

3. Signage, including signage affixed to the pedi-cab, is subject to Design Review approval by the Planning and Building Director. No advertising signs shall be permitted as a result of this approval with the exception of the insignias described in the application submittal materials received April 30, 2015.
4. The pedi-cab shall be operated in a manner, which is in compliance with all appropriate local and state ordinances and codes and shall obey all traffic regulations.
5. Any complaints received by the operator shall be forwarded to the Police Department since they are the lead to keep track of any and all complaints related to the operation of the vehicle for hire services.
6. The pedi-cab service authorized by this permit shall be restricted to the service as described in the application submittals and shall not be expanded beyond the scope of this project until the applicant receives from the City Council, a Public Necessity and Convenience Determination, in accordance with the existing provisions contained in the Calistoga Municipal Code.
7. The Planning and Building Director may approve minor amendments to this approval provided that the pedi-cab operation is still in substantial conformance with the original approval.
8. Prior to operation, a driver's permit for the operator and any employee shall be approved by the City Police Department.
9. This use shall conform to all required conditions established herein, as approved by the City Council on July 7, 2015. The applicant acknowledges that by accepting the terms and conditions of this Public Necessity and Convenience Determination, failure to comply without first receiving approval of the City is in violation and will be subject to enforcement, including possible revocation of the approval to protect the public health, safety and general welfare of the community, as set forth in the Calistoga Municipal Code.
10. The business operator shall maintain the pedi-cab and any ancillary structures in a clean and orderly manner, in accordance with adopted City maintenance standards, and shall comply with all applicable local, County, State, and Federal laws.
11. Prior to operation, the operator shall make an appointment with the Police Chief and/or his designee to inspect the vehicle(s) to ensure that the vehicle(s) is clean and operable.
12. Operation of the pedi-cab service shall be subject to issuance of a business license.

13. The use authorized by this approval shall be in conformance with the City's Noise Ordinance.
14. Prior to operation, the operator shall provide to the City Clerk a certificate of insurance including standard business and vehicle liability coverage in the amount of \$1,000,000 naming the City as additionally insured.
15. This approval does not become effective unless, prior to operation, the applicant shall sign and file with the City of Calistoga an indemnity agreement approved by the City Attorney's Office, which shall be substantially in the following form:

The applicant shall defend, indemnify, and hold harmless the City and its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul this approval or any prior or subsequent project-related approvals or conditions imposed by the City or any of its agencies, departments, commissions, agents officers, or employees concerning this project, or to impose personal liability against such agents, officers or employees resulting from their involvement in the project, including any claim for private attorney general fees claimed by or awarded to any party from the City. Applicant and owner agree to reimburse City for any and all costs incurred by City in responding to any claim, action, or proceeding, including but not limited to, court costs, staff time, including City Attorney time, legal defense costs and all other direct or indirect costs associated with City's response to any claim, action, or proceeding. The City may, within its unlimited discretion, participate in the defense of any such claim, actions or proceeding in good faith.
16. Each pedi-cab shall be equipped with a meter, inspected and certified by the Department of Weights and Measures. The rate of fare shall be posted in a conspicuous location within the pedi-cab and shall be visible to the occupant upon entering the pedi-cab.
17. If requested, the driver shall give a receipt upon payment of the correct fare. In a case of a dispute, the manner shall be determined by the officer in charge at the police station.
18. Prior to installation of any top sign or any future top sign, the applicant shall submit a detailed description of the top sign to the Planning and Building Director for review and approval.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Calistoga at a regular meeting held this 7th day of July 2015, by the following vote:

AYES: Councilmember Kraus, Vice Mayor Dunsford, Councilmembers Barnes and Lopez-Ortega and Mayor Canning
NOES: None
ABSTAIN: None
ABSENT: None



CHRIS CANNING, Mayor

ATTEST:



KATHY FLAMSON, City Clerk