

RESOLUTION 98- 113

**RESOLUTION OF THE CITY OF CALISTOGA CITY COUNCIL
ESTABLISHING GUIDELINES TO BE UTILIZED IN MAKING
DETERMINATIONS OF PUBLIC CONVENIENCE OR NECESSITY
PURSUANT TO THE REQUIREMENTS OF THE BUSINESS AND
PROFESSIONS CODE SECTION 23958.4**

WHEREAS, pursuant to Business and Professions Code Section 23958.4 (b)(2), the Department of Alcoholic Beverage Control (ABC) may grant certain types of alcoholic beverage licenses as set forth in said section; and

WHEREAS, this section prevents the ABC from issuing new licenses within an area identified as experiencing an undue concentration of licensed facilities unless the City Council (as the local governing body of the area in which the applicant's proposed premises is located) determines that the public convenience or necessity would be served by the issuance of said license; and

WHEREAS, the City Council may delegate the duties of determining whether or not public convenience or necessity are met to a subordinate agency, zoning, planning, or law enforcement official; and

WHEREAS, the City Council and the Planning Commission have indicated that they wish to establish specific criteria and procedures to be followed in fulfilling the requirements of this law; and

WHEREAS, the Planning Commission considered the proposed criteria and procedures during a duly noticed public hearing on June 24, 1998 at which time they recommended adoption of said criteria and procedures; and

WHEREAS, the City Council considered the Planning Commission's recommendation at a public meeting on July 21, 1998.

NOW, THEREFORE, BE IT RESOLVED that the City Council finds that it is necessary to establish guidelines to be utilized in making determinations of public convenience or necessity pursuant to the Business and Professions Code.

BE IT FURTHER RESOLVED that the City Council finds that this action is exempt from the requirements of the California Environmental Quality Act pursuant to the General Rule (Section 15061) and establishes the following guidelines to be utilized in making determinations of public convenience or necessity:

1 Determinations of public convenience or necessity required by Section 23958.4 of the
2 Business and Professions Code shall be made by the City Council following a noticed
3 public hearing.

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5 Determinations of public convenience or necessity shall be made with the following
6 guidelines taken into consideration:

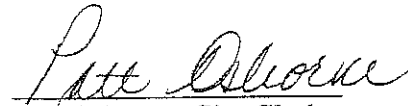
- 7
8 1. Input and recommendation from the Police Department should be obtained. This
9 input should cover the activity area for a period determined by the Chief of Police to
10 be adequate to show history, or lack thereof, of problems within the neighborhood
11 which potentially could be affected by an additional license. The Police Chief should
12 also offer a projection regarding the increased burden, if any, for Police services
13 which might be created by the issuance of an additional license.
- 14
15 2. Evidence and/or arguments provided by the applicant addressing the public
16 convenience or necessity that would be served by the additional license.
- 17
18 3. The nature of the proposed use.
- 19
20 4. The extent to which alcohol sales are related to the function of the proposed use and
21 the possibility of the use operating in a viable fashion without alcohol sales.
- 22
23 5. The proximity of the proposed licensed premises to sensitive land uses such as but not
24 limited to residences, schools, churches, parks, etc. and the effect that existing (and
25 proposed) licensed premises (may) have on such sensitive land uses.
- 26
27 6. The compatibility or suitability of the proposed use with the use and/or character of
28 the surrounding area.
- 29
30 7. The effect that the proposed use may have on the welfare of the area residents.
- 31
32 8. The public convenience or necessity which would be served to the community (both
33 immediate and the broader Calistoga area) by the issuance of an additional license.

34
35 **BE IT FURTHER RESOLVED** that based upon substantial evidence presented to this
36 Council during the referenced meeting, including written and oral staff reports and public
37 testimony, and subject to the provisions of the staff recommendation as modified, the
38 City Council:

1 PASSED, APPROVED, AND ADOPTED by the City Council of the City of Calistoga
2 at a regular meeting held this 21st day of July, 1998 by the following vote:
3
4

5 **AYES:** Mayor Callegari and Councilmember Byrne.
6 **NOES:** Councilmember Dohring.
7 **ABSTAIN/ABSENT:** Councilmember Dunsford.
8 **ABSENT:** Councilmember Cinocco.
9

10 
11 _____
12 Mario Callegari, Mayor
13
14

15 ATTEST:
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17 
18 _____
19 Patt Osborne, City Clerk
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21
22

23 Jom/c/resol/CCandue