

# City of Calistoga Staff Report

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**TO:** Honorable Mayor and City Council  
**FROM:** Erik V. Lundquist, Senior Planner  
**DATE:** July 7, 2015  
**SUBJECT:** Potential Mandatory Refuse and Recycling Service

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APPROVAL FOR FORWARDING



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Richard D. Spittler, City Manager

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1 **ISSUE:** Consideration of whether to make collection of refuse and recycle goods  
2 mandatory for all residential and nonresidential uses within the City.

3 **RECOMMENDATION:** Following a discussion of the issue, provide direction to Planning  
4 Department staff.

5 **BACKGROUND:** Between 1971 and 2007, the City required all households and  
6 businesses to take the garbage service provided by the City's contractor. Because of  
7 Proposition 218 (The Right to Vote on Taxes Initiative), the City was advised by the City  
8 Attorney that an increase in garbage service rates would require a vote of the people.  
9 Therefore, on January 16, 2007 the City Council adopted Ordinance No. 637 making  
10 garbage service provided by the City's contractor optional for households and all  
11 persons operating a commercial business or other establishment within the City. The  
12 City Council found that deleting the mandatory service requirement was necessary in  
13 order to simplify the rate increase approval process and to save City costs. It was also  
14 found that the effect would not likely have a material impact on the City, its residents, or  
15 the franchisee (Upper Valley Disposal & Recycling Service (UVDS)).

16 **DISCUSSION:** On April 3, 2015, the Green Committee recommended that the City  
17 Council direct staff to draft an ordinance reinstating mandatory trash service. The Green  
18 Committee felt that there has been an increasing amount of illegal dumping in the  
19 surrounding hillsides and believes it is attributed to residents without trash service.  
20 Additionally, Green Committee Member Sherrill opined that if residents don't have  
21 service they are less likely to recycle.

22 It is difficult to determine the actual number of non-customers that currently exist within  
23 the City. However, an attempt to make this determination, UVDS and City staff  
24 compared sets of data and found that 25.44% of the properties within the City do not  
25 have service. Upon review of these properties, it appears that many of them are vacant,  
26 share services with a neighboring property, are not occupied, or their tenant has the

27 service rather than the property owner. As such, staff would estimate that only about  
28 11% of the occupied properties in town do not have service.

29 The Town Council for Yountville recently adopted an ordinance making refuse and  
30 recycling services mandatory for certain properties unless a property owner applies and  
31 qualifies for an exemption. The Town of Yountville's Attorneys have concluded that the  
32 exemptions to the ordinance take the matter out of the realm of Proposition 218.

33 **CONSISTENCY WITH COUNCIL GOALS AND OBJECTIVES:** Goal 4 of the City  
34 Council Goals and Objectives for FY 2015/2016 seeks to create an environmentally-  
35 sustainable community. Mandatory trash service is good stewardship consistent with  
36 this goal.

37 **FISCAL IMPACT:** Due to the complexity and potential legal issues, the City Attorney  
38 would need to assist in the development of the ordinance, which would have cost  
39 implications. Additionally, mandating garbage service could result in the need for  
40 additional staff resources to monitor and enforce the applicable regulation. Staff  
41 believes that the existing ratepayer will see little to no effect on the rates as a result of  
42 new customers.

43 **NEXT STEPS:** If the City Council finds that the lack of refuse and recycling service is  
44 causing an impact to the community, the City Council could direct staff to prepare an  
45 ordinance, with the City Attorney's input, for its consideration at a later date.

#### **ATTACHMENT**

1. Excerpt of Green Committee Meeting Minutes of April 3, 2015
2. City of Calistoga Ordinance 637
3. Town of Yountville Ordinance 15-435
4. Town of Yountville Memorandum dated May 18, 2015

**CALISTOGA GREEN COMMITTEE  
REGULAR MEETING MINUTES EXCERPT  
April 3, 2015**

**1. ROLL CALL**

Committee members present: Chair Eden Umble, Vice-Chair Heidi Ticen and Committee member Carl Sherrill. Committee members absent: None. Staff member present: Senior Planner Erik Lundquist

**6. OLD BUSINESS**

**A. Discussion regarding mandatory trash service within the community**

**Committee Member Sherrill** expressed concern that if a person/property does not have trash service it likely means they do not recycle either. Mr. Sherrill indicated that he has discovered trash in the surrounding hillsides and believes it is attributed to residents without trash service.

**Vice Chair Ticen** expressed an interest in establishing a fund to assist those who cannot afford the service.

**Chair Umble** indicated that the community should also be more active in the annual clean-up event held in September.

A motion by **Committee Member Sherrill** to recommend that the City Council direct staff to draft an ordinance requiring mandatory trash service was seconded by **Vice Chair Ticen** and approved unanimously.

**ORDINANCE NO. 637****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING CHAPTER 8.16.30(A) OF CALISTOGA MUNICIPAL CODE IN ITS RELATION TO MANDATORY GARBAGE SERVICE**

**WHEREAS**, on October 19, 1971 the City Council adopted Ordinance No. 284 establishing that all householders and all persons operating a commercial business or other establishment within the City shall be required to take the garbage service provided by the contractor in the event that the City has an exclusive contract; and

**WHEREAS**, On November 5, 1996, California voters approved Proposition 218 (The Right to Vote on Taxes Initiative), an initiative designed to give taxpayers the right to approve or reject local governments' tax increases and special assessments on property; and

**WHEREAS**, the City Council hereby acknowledges that due to the passing of Proposition 218 mandatory service rate changes in the City of Calistoga may require a vote of the people; and

**WHEREAS**, a required vote of the people for mandatory service rate changes would be costly and unwieldy, and would defeat the purpose of simplification and cost savings to the City; and

**WHEREAS**, deleting this requirement is unlikely to have any material impact on the City, its residents, or the franchisee; and

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CALISTOGA DOES ORDAIN AS FOLLOWS:**

**SECTION ONE:**

Calistoga Municipal Code Section 8.16.030(A) of Title 8 (Garbage and Refuse) of the Calistoga Municipal Code is hereby amended as follows:

30(A). All householders and all persons operating a commercial business or other establishment within the City will have the option to take the service provided by the contractor in the event that the City has an exclusive contract. All householders and all persons operating commercial businesses or other establishments within the City shall deposit all garbage accumulated from their operations in suitable watertight containers with suitable handles, and with tight-fitting covers and shall not keep, accumulate, or permit to be kept or accumulated, any garbage except in such containers; and no such container shall be loaded to such an extent that the weight of the container and its contents exceeds 100 pounds; provided, however, that trash as in CMC 8.16.010(F), may,

if it is separated from all other types of garbage, be kept in other suitable containers. All containers shall be provided and maintained on the premises where the garbage, including trash, is produced, in a place easily accessible to the contractor, but where it will not be a public nuisance or otherwise offensive.

**SECTION TWO:**

If any section or portion of this ordinance is for any reason held to be invalid and/or unconstitutional by a court or competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

**SECTION THREE:**

Any judicial review of this Ordinance shall be by writ of mandate under Code of Civil Procedure 1085. Any action or proceeding seeking to attack, review, set aside, void or annul this Ordinance shall be commenced within 90 days after the adoption of this ordinance.

**SECTION FOUR:**

This Ordinance shall take effect thirty (30) days after its passage. Before expiration of fifteen (15) days after its passage by the City Council, the City Clerk shall cause to be published a summary of this ordinance in a newspaper of general circulation within the City of Calistoga.

**THIS ORDINANCE** was introduced with first reading waived at a regular meeting of the Calistoga City Council on the **19<sup>th</sup> day of December, 2006**, and was passed and adopted at a regular meeting of the Calistoga City Council on the **16<sup>th</sup> day of January, 2007**, by the following vote:

**AYES:** Vice Mayor Dunsford, Councilmembers Slusser, Garcia, Kraus,  
and Mayor Gingles  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

ATTEST:

  
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SUSAN SNEDDON, City Clerk

  
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JACK GINGLES, Mayor