

ORDINANCE NO. 1534

ORDINANCE ADDING

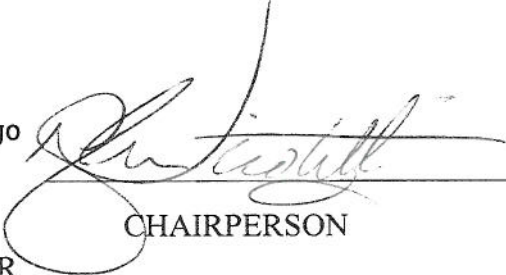
CHAPTER 8.100 TO TITLE VIII OF THE YUBA COUNTY ORDINANCE CODE
RELATING TO THE PREVENTION OF NUT CROP THEFT

The following ordinance consisting of three (3) sections, was duly and regularly passed and adopted by the Board of Supervisors of the County of Yuba, State of California, at a regular meeting of the Board of Supervisors held on the 22 day of July, 20 14 by the following vote:

AYES: Supervisors Vasquez, Nicoletti, Abe, Stocker

NOES: None

ABSENT: Supervisor Griego


CHAIRPERSON

ATTEST: DONNA STOTTLEMEYER

Clerk of the Board of Supervisors

By 

APPROVED AS TO FORM
ANGIL P. MORRIS-JONES,
COUNTY COUNSEL

By: 

1 **THE BOARD OF SUPERVISORS OF THE COUNTY OF YUBA, STATE OF**
2 **CALIFORNIA DOES ORDAIN AS FOLLOWS:**

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4 **SECTION 1.** This ordinance shall take effect Thirty (30) days after its passage, and
5 before the expiration of Fifteen (15) days after its passage a summary shall be published, with
6 the names of the members voting for and against the same, once in a local newspaper of general
7 circulation in the County of Yuba, State of California.

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9 **SECTION 2.** Chapter 8.100 is hereby added to Title VIII of the Yuba County
10 Ordinance Code which are the provisions establishing requirements regarding the transportation
11 and identification of nut crops, including establishing a walnut buying period to prevent the theft
12 of nut crops in Yuba County and reads in its entirety as follows:

13	Section 8.100.010.	Purpose and Intent.
14	Section 8.100.020.	Definitions.
15	Section 8.100.030.	Proof of Ownership Certificate.
16	Section 8.100.040.	Same – Inspection, Presentation and Retention.
17	Section 8.100.050.	Falsification of Proof of Ownership.
18	Section 8.100.060.	Inspection/Vehicle Stops.
19	Section 8.100.070.	Seizure of Agricultural Commodities.
20	Section 8.100.080.	Exemptions.
21	Section 8.100.090.	Violations.
22	Section 8.100.100.	Civil Penalties.
23	Section 8.100.110.	Remedies Cumulative.
24	Section 8.100.120.	Transportation or Sale of Walnuts to Non-processing Walnut Buying Operations Outside of the Walnut Buying Period is Prohibited.

25 **8.100.010. Purpose and Intent.**

 In § 851, et seq, of the Food and Agriculture Code the Legislature established
minimal requirements concerning Agriculture Theft Prevention. This Chapter is adopted

1 pursuant to Article XI, § 7 of the California Constitution, which authorizes the County to exercise
2 the police power of the State by adopting regulations promoting the public health, public safety,
3 and the general welfare of its citizens, and Food and Agriculture Code § 866. In this article,
4 Yuba County establishes additional requirements regarding the transportation and identification
5 of nut crops, including establishing a walnut buying period. It is the purpose and intent of this
6 article to establish a means of verifying ownership of specified agricultural commodities in order
7 to prevent and deter theft of these commodities and to provide a means for local enforcement of
8 laws and regulations pertaining to the purchase and sale of these commodities.

11 **8.100.020. Definitions.**

12 Except where the context otherwise requires, the following definitions shall govern
13 the construction of this chapter:

14 (1) "Agricultural commissioner" is defined as the agricultural commissioner of
15 Yuba County and designated representatives.

16 (2) "Agricultural commodities" or "commodity" is defined as any nut crop of any
17 quantity.

18 (3) "Buyer" is defined as an individual or entity engaged in the purchase of an
19 agricultural commodity, and who is licensed to engage in such business by the state.

20 (4) "Grower" is defined as the person who has personally, or through the
21 employment of others, grown and harvested an agricultural commodity.

22 (5) "Non-processing walnut buying operation" is defined as a buyer of walnuts
23 that have not been dried or processed who does not have a permanent form of on-site processing
24 or does not operate a walnut processing facility.

1 (6) "Person" is defined as any individual, firm, partnership, joint venture,
2 corporation or other entity possessing, buying, transporting or selling an agricultural commodity
3 as a principal or as an agent of another.

4 (7) "Processor" is defined as all nut processing facilities which have a permanent
5 functioning form of processing on site and is compliant with Yuba County building and zoning
6 requirements.

7 (8) "Proof of ownership" is defined as:

8 (a) If the possessor of the agricultural commodity is the grower of the
9 commodity, proof that the commodity was grown by that grower. Proof of ownership in this
10 context shall mean documents or information sufficient to verify that the possessor is the grower
11 of the commodity.

12 (b) If the possessor of the agricultural commodity is other than the grower of
13 the commodity, the possessor of the commodity must have a completed proof of ownership
14 certificate in a form approved by the agricultural commissioner meeting the requirements of
15 Section 8.100.030. such form utilized for this purpose shall be signed by the possessor of the
16 agricultural commodity and signed by the person who sold or provided the agricultural
17 commodity to the person in possession.

18 (9) "Seller" is defined as a person who sells or attempts to sell an agricultural
19 commodity to a buyer or other person.

20 (10) "Walnut Buying Period" is defined as the declared conclusion of harvest of the
21 Chandler variety of walnuts by the agricultural commissioner, after consultation with a
22 committee of walnut growers, whereupon non-processing walnut buying operations within the
23 boundaries of Yuba County may lawfully purchase and receive walnuts that have not been dried
24 or processed. Such period shall be proclaimed seventy-two (72) hours in advance by press
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1 release and posted on the County website, and shall last until April 30th of the following year.

2 (11) "Walnut" is defined as walnuts of the English (*Juglans regia*) varieties grown
3 in California, of any quantity, in a raw and unprocessed form.

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6 **8.100.030. Proof of Ownership Certificate.**

7 A proof of ownership certificate form approved by the agricultural commissioner
8 shall contain the following information:

- 9 (1) Name, address, telephone number, and signature of the seller.
10 (2) Name, address, telephone number, and signature of the buyer.
11 (3) The vehicle license plate number of the seller.
12 (4) The driver's license number of the seller.
13 (5) The weight of the agricultural commodity purchased.
14 (6) The date and time of the transaction.
15 (7) The variety and condition of the agricultural commodity.
16 (8) Specific identification of the source of the commodity being sold. This shall
17 mean, if the seller is the grower of the commodity, the address at which the commodity was
18 grown. This shall mean, if the seller is not the grower of the commodity, the name and address
19 and phone number of the person from whom that seller obtained the commodity, and if known,
20 the address where the commodity was grown.

21 It is the responsibility of a buyer to obtain the requisite information to permit
22 completion of the proof of ownership certificate form. The proof of ownership certificate shall
23 not be valid unless signed by both the person in possession of the commodity and by the person
24 from whom the possessor obtained the commodity.
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1 **8.100.040. Same – Inspection, presentation and retention.**

2 (a) The proof of ownership certificate form shall be retained with the agricultural
3 commodity to which it pertains while the commodity is in any person's possession, while being
4 transported and until sold.

5 (b) Upon probable cause to believe that any agricultural commodity is in the unlawful
6 possession of any person, the agricultural commissioner, or his or her designee, and any peace
7 officer may inspect the commodity and request that a valid form of proof of ownership be
8 provided. The possessor of the commodity shall permit inspection of the commodity and of
9 corresponding proof of ownership certificate form. If the possessor is a grower, the grower shall
10 provide information sufficient to verify that status. If the possessor is not the grower, upon
11 reasonable notice, a copy of the proof of ownership certificate form shall be provided.

12 (c) To facilitate inspection by the agricultural commissioner, or his or her designee, the
13 buyer shall purchase and keep the commodity at a place of business in compliance with the
14 county building and planning/zoning ordinances, until transported for resale or other handling.

15 (d) Following any sale of the agricultural commodity by the buyer, the proof of
16 ownership certificate form shall be retained by the buyer for a period of two (2) years from the
17 date of such sale. Buyers shall also retain any records pertaining to the resale of agricultural
18 commodities to which the proof of ownership certificate form pertains, for a period of two (2)
19 years.

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22 **8.100.050. Falsification of Proof of Ownership**

23 It is unlawful for any person to knowingly falsify or cause the falsification of, any
24 proof of ownership certificate, or other document presented as evidence of a person's ownership.
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1 **8.100.060. Inspection/Vehicle Stops**

2 Any peace officer may, upon having probable cause to believe a person is in illegal
3 possession of agricultural commodity in violation of this chapter, stop that person and search and
4 inspect the agricultural commodity and request proof of ownership. If the agricultural
5 commissioner, or his or her designee, has probable cause to believe that any agricultural
6 commodity is unlawfully possessed, he or she may request a peace officer to stop a vehicle or
7 other form of transportation for inspection.

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9 **8.100.070. Seizure of Agricultural Commodities**

10 Upon reasonable belief that a person is in unlawful possession of an agricultural
11 commodity in violation of this chapter, the commodity, or any portion of a commodity, which is
12 reasonably determined to be unlawfully possessed, may be seized, held, and disposed of by the
13 agricultural commissioner the manner provided in Sections 882 through 884 of the California
14 Food and Agricultural Code.

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16 **8.100.080. Exemptions.**

17 This article shall not apply to the following:

18 (1) Commodities transported directly by a grower or agent from the farm or ranch
19 where they are grown to a commercial processing or packing plant within this state for
20 processing or packing.

21 (2) Commodities transported and accompanied by a valid permit, disposal order,
22 or certificate issued by the agricultural commissioner for any reason other than to comply with
23 this article.

24 Notwithstanding the exemption provided in subsections (1) and (2) above, the
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1 agricultural commissioner, or his or her designee, and any peace officer may inspect any
2 agricultural commodity as provided in this article and may require that information be provided
3 sufficient to permit verification that the exemption applies in the circumstances presented.
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5 **8.100.090. Violations**

6 Any person violating any of the provisions of this article shall be guilty of a
7 misdemeanor.
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9 **8.100.100. Civil Penalties.**

10 In addition to any other penalty, each violation of this chapter may be subject to an
11 administrative penalty of not more than five hundred dollars (\$500) for the first violation, and of
12 not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for a
13 second or subsequent violation. The administrative penalty may be imposed via the
14 administrative process set forth in this section, as provided in Government Code Section
15 53069.4. The Agricultural Commissioner may commence the administrative process by issuance
16 of a Notice of Violation and Proposed Administrative Penalty, which shall state the amount of
17 the proposed administrative penalty and the reasons therefore. The Notice shall inform the
18 recipient of their right to request a hearing before the Board of Supervisors in accordance with
19 this section. If such a hearing is not requested within thirty days after issuance of the Notice, the
20 proposed penalty shall become final and conclusive, and the Person to whom the notice was
21 issued shall immediately make payment of the penalty amount to the county. If the Person to
22 whom the Notice timely requests a hearing, the Person shall be notified by certified mail when
23 the matter has been set for hearing. After the hearing, the Board of Supervisors may affirm,
24 modify, or set aside, in whole or in part, by its own order, any order of the Agricultural
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1 Commissioner imposing an administrative penalty. Any order of the Board of Supervisors shall
2 become effective upon issuance thereof and shall be served by certified mail upon the appellant.
3 Payment of an administrative penalty specified in the Board of Supervisors' order shall be made
4 to the County within thirty days of service of the order. In addition to any other remedy, the
5 County may prosecute a civil action through the office of the County Counsel to collect any
6 administrative penalties imposed pursuant to this section. In determining the amount of the
7 administrative penalty, the Agricultural Commissioner, or the Board of Supervisors if a hearing
8 is requested, shall take into consideration the nature, circumstances, extent, and gravity of the
9 violation or violations, any prior history of violations, the degree of culpability, economic
10 savings, if any resulting from the violation, and any other matters justice may require.

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12 **8.100.110. Cumulative remedies.**

13 All remedies provided for herein are cumulative and not exclusive, and are in
14 addition to any other remedy or penalty provided by law.

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16 **8.100.120. Transportation or Sale of Walnuts to Non-processing Walnut Buying
17 Operations Outside of the Walnut Buying Period is Prohibited.**

18 Walnuts that have not been dried or processed shall not be transported to, sold to,
19 purchased by, or received by, a non-processing walnut buying operation within the boundaries of
20 Yuba County outside of the Walnut Buying Period, as established by the agricultural
21 commissioner.
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1 **SECTION 3.** If any section, subsection, sentence, clause or phrase of this ordinance is
2 for any reason held to be unconstitutional and invalid, such decision shall not affect the validity
3 of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it
4 would have passed this ordinance and every section, subsection, sentence, clause or phrase
5 thereof, irrespective of the fact any one or more sections, subsections, sentences, clauses or
6 phrases be declared unconstitutional.

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9 The foregoing instrument is a Correct Copy
10 of the original on file in this office
11 ATTEST: DONNA STOTTLEMEYER
12 Clerk of the Board of Supervisors of the
13 County of Yuba, State of California

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By Rachel Dennis
Date: July 22, 2014