

ORDINANCE NO. 1598

AN ORDINANCE OF THE COUNTY OF SUTTER AMENDING THE SUTTER COUNTY ORDINANCE CODE BY ADOPTING CHAPTER 490 ESTABLISHING REQUIREMENTS REGARDING THE TRANSPORTATION AND IDENTIFICATION OF WALNUT CROPS, ESTABLISHING A WALNUT BUYING PERIOD, AND PREVENTING THE THEFT OF WALNUT CROPS IN SUTTER COUNTY

THE BOARD OF SUPERVISORS OF THE COUNTY OF SUTTER ORDAINS AS FOLLOWS:

SECTION 1: The Sutter County Ordinance Code is amended by adopting Chapter 490 to read in its entirety as follows:

Chapter 490

WALNUT THEFT PREVENTION

SECTIONS:

490-010	Authority and Title
490-020	Findings and Purpose
490-030	Definitions
490-040	Proof of Ownership Certificate
490-050	Inspection, Presentation, and Retention
490-060	Falsification of Proof of Ownership
490-070	Inspection/Vehicle Stops
490-080	Seizure of Agricultural Commodities
490-090	Exemptions
490-100	Violations
490-110	Civil Penalties
490-120	Cumulative Remedies
490-130	Transportation or Sale of Walnuts to Non-processing Walnut Buying Operations Outside of the Walnut Buying Period is Prohibited

490-010 AUTHORITY AND TITLE

Pursuant to the authority granted by Article XI, section 7, of the California Constitution and subdivision (d) of section 25123 of the California Government Code, the Board of Supervisors enacts this chapter as an urgency ordinance, which shall be known and may be cited as the "Sutter County Walnut Theft Prevention Ordinance."

490-020 FINDINGS AND PURPOSE

(1) The Board declares and finds as follows:

 (a) Agricultural theft has become a major problem in Sutter County and in the State of California;

- (b) Currently, 34,012 acres of walnuts exist in Sutter County;
- (c) Walnuts in Sutter County have a value in excess of \$143,620,000;
- (d) Walnuts are especially vulnerable to theft because of the manner in which they are harvested;
- (e) The theft of walnuts affects the agricultural viability of Sutter County, results in considerable economic loss and, therefore, constitutes a threat to the health, safety, and welfare of the residents of Sutter County.

(2) The Board declares that the purpose of this ordinance is to establish requirements regarding the transportation and identification of walnut crops, including establishing a walnut buying period. It is the purpose and intent of this chapter to establish a means of verifying ownership of specified agricultural commodities in order to prevent and deter theft of these commodities and to provide a means for local enforcement of law and regulations pertaining to the purchase and sale of these commodities.

490-030 DEFINITIONS

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

- (1) “Agricultural commissioner” is defined as the Agricultural Commissioner of Sutter County or his or her designated representative.
- (2) “Agricultural commodities” or “commodity” is defined as any crop of any quantity.
- (3) “Buyer” is defined as an individual or entity engaged in the purchase of an agricultural commodity, and who is licensed to engage in such business by the state.
- (4) “Grower” is defined as the person who has personally, or though the employment of others, grown and harvested an agricultural commodity.
- (5) “Non-processing walnut buying operation” is defined as a buyer of walnuts that have not been dried or processed and which buyer does not have a permanent form of on-site processing or does not operate a walnut processing facility.
- (6) “Person” is defined as any individual, firm, partnership, joint venture, corporation, or other entity possessing, buying, transporting, or selling an agricultural commodity as a principal or as an agent of another.
- (7) “Processor” is defined as all walnut processing facilities which have a permanent functioning form of processing on-site and are compliant with Sutter County building and zoning requirement.
- (8) “Proof of ownership” is defined as follows:

(a) If the person in possession of an agricultural commodity is the grower, the grower shall provide proof of ownership in the form of documents or information sufficient to verify he or she is the grower.

(b) If the person in possession of the agricultural commodity is other than the grower of the commodity, the possessor of the commodity must have a completed proof of ownership certificate in a form approved by the agricultural commissioner meeting the requirements of section 490-040. Such form utilized for this purpose shall be endorsed by the possessor of the agricultural commodity and endorsed by the person who sold or provided the agricultural commodity to the person in possession.

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

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

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

490-040 PROOF OF OWNERSHIP CERTIFICATE

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

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

It is the responsibility of a buyer to obtain the requisite information to permit completion of the proof of ownership certificate form. The proof of ownership certificate shall not be valid unless signed by both the person in possession of the commodity and by the person from whom the possessor obtained the commodity.

490-050 INSPECTION, PRESENTATION, AND RETENTION

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

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

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

(4) Following any sale of the agricultural commodity by the buyer, the proof of ownership certificate form shall be retained by the buyer for a period of two (2) years from the date of each sale. Each buyer shall also retain any records pertaining to the resale of agricultural commodities to which the proof of ownership certificate form pertains, for a period of two (2) years.

490-060 FALSIFICATION OF PROOF OF OWNERSHIP

It is unlawful for any person to knowingly falsify, or cause the falsification of, any proof of ownership certificate, or other document presented as evidence of a person's ownership.

490-070 INSPECTION/VEHICLE STOPS

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

490-080 SEIZURE OF AGRICULTURAL COMMODITIES

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

490-090 EXEMPTIONS

This article shall not apply to the following:

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

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

Notwithstanding the exemptions provided in sections (1) and (2), the agricultural commissioner, or his or her designee, or any peace officer may inspect any agricultural commodity as provided in this chapter and may require that information be provided sufficient to permit verification that the exemption applies in the circumstances presented.

490-100 VIOLATIONS

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor.

490-110 CIVIL PENALTIES

In addition to any other penalty provided by law, each violation of this chapter may be subject to an administrative penalty of up to five hundred dollars (\$500) for the first violation, and up to one thousand dollars (\$1,000) for any second or subsequent violation pursuant to California Food and Agricultural Code section 885. Administrative penalties may be imposed and due process provided pursuant to the provisions of chapter 87 of the Sutter County Ordinance Code.

490-120 CUMULATIVE REMEDIES

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

490-130 TRANSPORTATION OR SALE OF WALNUTS TO
NON-PROCESSING WALNUT BUYING OPERATIONS
OUTSIDE THE WALNUT BUYING PERIOD IS PROHIBITED

Walnuts that have not been dried or processed shall not be transported to, sold to, purchased by, or received by, a non-processing walnut buying operation within the boundaries of Sutter County outside of the Walnut Buying Period as established by the agricultural commissioner.

SECTION 2: If any section, subsection, sentence, clause, phrase, or portion of this ordinance is held by a court of competent jurisdiction to be invalid or unconstitutional, that portion shall be deemed a separate, distinct, and independent provision, and the court's holding shall not affect the validity of the remaining portions of this ordinance.


SECTION 3: This ordinance shall take effect immediately upon passage as an urgency ordinance pursuant to subdivision (d) of section 25123 of the California Government Code for the immediate preservation of the health, safety, and welfare and, a summary of this ordinance together with the names of the members of the board of supervisors voting for and against the ordinance, shall be published in the Appeal Democrat, a newspaper of general circulation, at least once before the expiration of 15 days from the date of passage.

PASSED AND ADOPTED this 5th day of August, 2014, by the Sutter County Board of Supervisors, State of California, by the following vote:

AYES: Supervisors Sullenger, Cleveland, Whiteaker and Gallagher

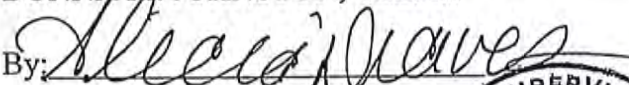
NOES: None

ABSENT: Supervisor Munger



Stanley Cleveland, Jr., Chairman

ATTEST:
DONNA M. JOHNSTON, CLERK

By: 
Deputy

