

**AN ORDINANCE OF THE COUNTY OF KINGS REPEALING  
CHAPTER 14, ARTICLE 9 OF THE CODE OF ORDINANCES IN ITS  
ENTIRETY AND ENACTING NEW CHAPTER 14, ARTICLE 9  
RELATING TO THE PREVENTION OF WALNUT THEFT**

The Board of Supervisors of the County of Kings ordains as follows:

**Section 1.** That the Code of Ordinances, County of Kings Chapter 14, Article 9, heretofore adopted by Ordinance No. 662 on June 11, 2013, is hereby repealed in its entirety.

**Section 2.** That the Code of Ordinances, County of Kings, is hereby amended by adding Chapter 14, Article 9, which reads as follows:

**ARTICLE IX. PREVENTION OF WALNUT THEFT.**

Section 14-161. Purpose and Intent.

This article is adopted under the authority of California Food and Agriculture Code section 866. It is the purpose and intent of this article to help protect the agricultural industry of Kings County, establish a means of verifying valid ownership of walnuts in order to prevent and deter theft, and to provide a means for local enforcement of laws and regulations pertaining to the purchase and sale of walnuts. This article does not apply to the retail sales of walnuts directly to consumers.

Sec. 14-162. Definitions.

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

(a) *Agent* means an individual who acts on behalf of any walnut buying operation and is licensed as an agent, as required under California Food and Agriculture Code Section 56181.

(b) *Agricultural commissioner* means the Agricultural Commissioner of Kings County and his or her designated representatives.

(c) *Buyer* means an individual or entity engaged in the purchase of walnuts.

(d) *Gleaning* means the process through which walnuts remaining on the ground following the grower's completion of the harvest are gathered with the permission of a grower and with the approved proof of ownership certification. A *gleaner* means one who engages in the act of gleaning.

(e) *Grower* means the person who has personally, or through the employment of others, grown and harvested walnuts.

(f) *Non-processing walnut-buying operation* and *non-processing walnut-buying operator* both mean a buyer who does not have on-site processing.

(g) *Person* means any individual, firm, partnership, joint venture, corporation or other entity, who is buying, possessing, transporting or selling as a principal or as an agent of another.

(h) *Proof of ownership* means a completed proof of ownership certificate in a form approved by the agricultural commissioner or, for a grower, any documents or information sufficient to verify ownership.

(j) *Seller* means a person who sells or attempts to sell walnuts to a buyer.

(k) *Walnut buying period* means the period of time commencing the day after the date declared by the agricultural commissioner to be the end of the harvest of the Chandler variety of walnuts and ending on September 1 of the following year. The commencement of such period shall be proclaimed by the agricultural commissioner 72 hours in advance by press release. The agricultural commissioner shall consult with a committee of walnut growers prior to making such proclamation.

#### Sec. 14-163. Non-processing walnut-buying operations/walnut buying period.

Non-processing walnut-buying operations shall not buy walnuts within the boundaries of Kings County until the commencement of the walnut buying period as established by the agricultural commissioner.

#### Sec. 14-164. Proof of ownership certificate.

(a) Every person in possession of unprocessed walnuts is required to have proof of ownership, unless exempted in Section 14-170.

(b) Proof of ownership certificate forms shall be distributed by the agricultural commissioner, and shall be used to establish ownership for the prevention and/or deterrence of theft of walnuts. The form shall be in triplicate with a copy for the grower, the person to whom the walnuts are transferred, and any subsequent buyer.

(c) The proof of ownership certificate form shall contain the following applicable information:

(1) Name, physical address (not a post office box), telephone number, and signature of the grower.

(2) Name, address, telephone number, and signature of the person to whom the walnuts are being transferred (i.e. buyer or gleaner).

(3) The vehicle license plate number of the person listed in number 2 above.

(4) The driver's license number of person listed in number 2 above.

(5) The known or estimated weight of the walnuts transferred.

(6) The date and time of the transfer.

(7) The variety and condition, for example in-hull versus hulled, of the walnuts.

(8) Specific identification of the source of the walnuts being transferred. This shall mean the address, assessor's parcel number, field number, or other identifying information for where the walnuts were grown.

(9) Any other information as required by the agriculture commissioner.

(d) A grower who transfers possession of any quantity of walnuts to anyone other than a processor who processes walnuts within the County of Kings, shall complete a proof of ownership certificate form at the time of transfer and retain the first copy.

A person to whom any quantity of walnuts is transferred by a grower shall retain the second copy of the proof of ownership and present the third copy to any subsequent buyer at the time of the transfer.

Any subsequent buyers shall record information on all incremental transfers including date, weight and dollar amount paid.

It is the responsibility of all parties involved to obtain the requisite information to permit completion of the proof of ownership certificate

(e) The proof of ownership certificate shall not be valid unless signed by both parties to each transfer.

(f) Growers are not required to have a proof of ownership certificate. Growers may use any documents or information sufficient to verify ownership.

#### Sec. 14-165. Proof of ownership, inspection, registration and retention.

(a) *Inspection and registration.* To facilitate inspection by the Kings County Agricultural Commissioner or a peace officer, the buyer shall register with the agricultural commissioner on an annual basis and comply with Business and Professions Code section 12501.1, and provide completed proof of ownership certificates to the inspector upon request.

The buyer shall purchase and keep the walnuts at a place of business in compliance with the Kings County Building and Zoning Ordinances, until transported for resale or other handling. At the time of registration, the Buyer shall designate a processor, to which sales will be made.

(b) *Retention of records.* Proof of ownership certificates shall be retained by all parties for a period of two years from the date of transaction.

#### Sec. 14-166. 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 any other documentation used to establish ownership of walnuts.

#### Sec. 14-167. Vehicle stops.

Upon probable cause to believe that any quantity of walnuts is in the unlawful possession of any person, the agricultural commissioner, or his or her designee, or any peace officer may inspect the walnuts and request that proof of ownership be provided.

Upon being stopped, the possessor of the walnuts shall provide the proof of ownership applicable to the walnuts being transported and shall permit inspection of the walnuts.

Sec. 14-168. Seizure, retention and disposition of walnuts.

(a) *Seizure and retention.* Upon reasonable belief that a person is in unlawful possession of walnuts, the walnuts which are reasonably determined to be unlawfully possessed may be seized and held by the agricultural commissioner, or his or her designee, or any peace officer. The seized walnuts shall be held at such place and in such manner as is reasonable under the circumstances, and until disposed of as provided in this section. The commissioner, or his or her designee, or peace officer shall record the date and place of seizure and information pertaining to the person from whom the walnuts were seized, and, to the extent practical, the quantity, type, condition and other information pertaining to the walnuts.

(b) *Investigation.* The agricultural commissioner, or his or her designee, or any peace officer shall investigate to ascertain the ownership of any walnuts that have been held pursuant to this section. If the lawful owner is located, the walnuts shall be released to the owner or the owner's agent. The commissioner, or his or her designee, may require reasonable payment, not to exceed the value of the walnuts, to cover costs incurred for storage.

(c) *Disposition.* If for any reason the walnuts cannot be released to the rightful owner within 48 hours after coming into the custody of the agricultural commissioner, or for any shorter period of time that the commissioner deems necessary in the case of perishability concerns, the commissioner, or his or her designee, may sell the walnuts by public auction or by private sale at fair market value to a commercial packer of walnuts. Prior to any such sale the commissioner, or his or her designee, shall determine that the sale of the walnuts will not impair the prosecution of any person who is or may be charged with a crime related to this article. All of the proceeds derived from the sale of the walnuts shall be held by the agriculture commissioner for a period of not less than six months, during which time the lawful owner of the walnuts may submit satisfactory proof of ownership and obtain possession of the proceeds. The commissioner may require the payment by the owner of an amount sufficient to cover the costs incurred for the storage and sale of the walnuts, in an amount not to exceed the value of the walnuts. If, after retention of the proceeds for a period of at least six months, no demand is made or if proof of ownership is not supplied, the commissioner shall deposit the proceeds of the sale of the walnuts in the general fund of the county.

(d) *Donation to nonprofit organization.* If any seized walnuts remain unsold after being offered for sale pursuant to this section, the agriculture commissioner, or his or her designee, may donate the walnuts to a nonprofit organization.

(e) *Destruction.* If the walnuts are unfit for human consumption, the agricultural commissioner shall have them destroyed.

Sec. 14-169. Violations.

Any person violating any of the provisions of this article shall be guilty of a misdemeanor, which shall be punishable as provided in section 1-8 of this Code. This punishment is separate and independent from any punishment or penalty provided for under any other law or regulation, including forfeiture.

Sec. 14-170. Exemptions.

(a) This article shall not apply to walnuts transported and accompanied by a valid permit, disposal order, or certificate issued by the commissioner for any reason other than to comply with this article.

(b) Notwithstanding the exemption above, the agricultural commissioner, or his or her designee, or any peace officer may inspect any containment/possession of walnuts as provided in this article and may require that information be provided sufficient to permit verification that the exemption applies in the particular circumstances.

**Section 3. Effective Date.** This Ordinance shall take effect and be in force thirty (30) days after its adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of Kings, State of California, on the \_\_\_\_\_ day of \_\_\_\_\_, 2014, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

Chairman of the Board of Supervisors  
County of Kings, State of California

WITNESS my hand and seal of said Board of Supervisors this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Clerk of said Board of Supervisors