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[Home](#) > Trees & Shrubs: Records of Ownership of Nut Crops

Chapter 310 Trees & Shrubs: Records of Ownership of Nut Crops

- **Section 010 Purpose**

In Chapter 8 of Part 1 of Division 1 of the Food and Agriculture Code, commencing with Section 851, the Legislature established minimal requirements concerning Agriculture Theft Prevention. This article is adopted pursuant to Article XI, Section 7 of the California Constitution, which authorizes the County to exercise the police power of the State by adopting regulations promoting the public health, public safety, and the general welfare of its citizens, and Food and Agriculture Code Section 866. In this article, Glenn County establishes additional requirements regarding the transportation and identification of nut crops, including establishing a walnut buying period. It is the purpose and intent of this article 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 laws and regulations pertaining to the purchase and sale of these commodities. (Ord. 1243 § 1, 2013)

- **Section 010 Exemptions**

This article shall not apply to the following:

- A. Commodities transported directly by a grower or agent from the farm or ranch where they are grown to a commercial packing plant within this state for processing or packing.
- B. Commodities in possession of any person as a result of gleaning undertaken with the permission of the grower and with proof of ownership.
- C. 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 article.

Notwithstanding the exemption provided in subsections (1) and (2) above, the agricultural commissioner, or his or her designee, and any peace officer may inspect any agricultural commodity as provided in this article and may require that information be provided sufficient to permit verification that the exemption applies in the circumstances presented. (Ord. 1243 § 1, 2013)

- **Section 020 Definitions**

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

- A. "Agricultural commissioner" means the agricultural commissioner of Glenn County and designated representatives.
 - B. "Agricultural commodities" or "commodity" means any nut crop of any quantity.
 - C. "Buyer" means an individual or entity engaged in the purchase of an agricultural commodity, and who is licensed to engage in such business by the state.
 - D. "Gleaning" means the process through which nuts remaining on the ground following the grower's completion of the harvest are gathered with the permission of a grower and with proof of ownership.
 - E. "Grower" means the person who has personally, or through the employment of others, grown and harvested an agricultural commodity.
 - F. "Non-processing walnut buying operation" means a buyer of walnuts that have not been dried or processed who does not have on-site processing.
 - G. "Person" means 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.
 - H. "Proof of ownership" means:
 - 1. If the possessor of the agricultural commodity is the grower of the commodity, proof that the commodity was grown by that grower. Proof of ownership in this context shall mean documents or information sufficient to verify that the possessor is the grower of the commodity.
 - 2. If the possessor of the agricultural commodity is other than the grower of the commodity, a completed proof of ownership certificate in a form approved by the agricultural commissioner, or the requisite information set out in any alternative written form acceptable to the agricultural commissioner. Any form utilized for this purpose shall be signed by the possessor of the agricultural commodity and signed by the person who sold the agricultural commodity to the person in possession.
 - I. "Seller" means a person who sells or attempts to sell an agricultural commodity to a buyer or other person.
 - J. "Walnut Buying Period" means the declared conclusion of harvest of walnuts by the agricultural commissioner, after consultation with a committee of walnut growers, whereupon non-processing walnut buying operations within the boundaries of Glenn County may purchase and receive shipments of walnuts that have not been dried or processed. Such period shall be proclaimed seventy-two (72) hours in advance by press release and shall last until walnut trees bear nuts in the subsequent season.
- (Ord. 1243 § 1, 2013)

• **Section 030 Proof of Ownership Certificate**

The proof of ownership certificate, or any alternative written proof of ownership form found to be acceptable to the agricultural commissioner, shall contain the following information:

- A. Name, address, telephone number, and signature of the seller.
- B. Name, address, telephone number, and signature of the buyer.
- C. The vehicle license plate number of the seller.
- D. The driver's license number of the seller.
- E. The weight of the agricultural commodity purchased.
- F. The date and time of the transaction.
- G. The variety and condition of the agricultural commodity.
- H. 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. This shall mean, 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 or alternative form. The proof of ownership certificate or alternative form 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. (Ord. 1243 § 1, 2013)

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Section 040 Same - Inspection, Presentation and Retention

A. The proof of ownership certificate or alternative 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.

B. Upon probable cause to believe that any agricultural commodity is in the unlawful possession of any person, any agricultural commissioner, or his or her designee, and any peace officer may inspect the commodity and request that proof of ownership be provided. The possessor of the commodity shall permit inspection of the commodity and of corresponding proof of ownership certificate or alternative form. If the possessor is a grower, the grower shall provide information sufficient to verify that status. Upon reasonable notice, a copy of the proof of ownership certificate or alternative form shall be provided.

C. 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 and planning/zoning ordinances, until transported for resale or other handling.

D. Following any sale of the agricultural commodity by the buyer, the proof of ownership certificate or alternative form shall be retained by the buyer for a period of two (2) years from the date of such sale. Buyers shall also retain any records pertaining to the resale of agricultural commodities to which the proof of ownership certificate or alternative form pertains, for a period of two (2) years. (Ord. 1243 §1, 2013)

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Section 050 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 proof of ownership. (Ord. 1243 § 1, 2013)

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Section 060 Vehicle Stops

Any peace officer may, upon having probable cause to believe that a person is in illegal possession of an agricultural commodity, stop and search and inspect the agricultural commodity and request proof of ownership. If an 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 for inspection. (Ord. 1243 § 1, 2013)

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Section 070 Retention of Seized Commodity

Upon reasonable belief that a person is in unlawful possession of an agricultural commodity, the commodity, or any portion of a commodity, which is reasonably determined to be unlawfully possessed, may be seized and held by the agricultural commissioner, his or her designee, or any peace officer. The commodity so seized shall be held at such place and in such manner as is reasonable under the circumstances, and until disposed of as provided in this article. The commissioner or peace officer shall record the date and place of seizure and information pertaining to the person from whom the commodity was seized, and to the extent practical, the quantity, type, condition and other information pertaining to the commodity. (Ord. 1243 § 1, 2013)

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Section 080 Investigation to Ascertain Ownership

The agricultural commissioner, his or her designee, or any peace officer may investigate to ascertain the ownership of any commodity that has been held pursuant to this article and if the lawful owner is located, the commodity shall be released to the owner or agent. The commissioner may require reasonable payment, not to exceed the value of the commodity, to cover costs incurred for storage of the commodity. (Ord. 1243 § 1, 2013)

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Section 090 Disposition of Agricultural Commodities

A. If for any reason the commodity cannot be released to the rightful owner within forty-eight (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 perishable commodities, the commissioner may sell the commodity by public auction or any private sale at fair market value to a commercial packer of the commodity. Prior to any such sale the commissioner shall determine that the sale of the commodity will not impair the prosecution of any person who is or may be charged with a crime related to the commodity.

B. All of the proceeds derived from the sale of the commodity shall be held by the commissioner for a period of not less than six (6) months, during which time the lawful owner of the commodity 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 commodity, in an amount not to exceed the value of the commodity. If, after retention of the proceeds for a period of at least six (6) months, no demand is made or if proof of ownership is not supplied, the commissioner shall deposit the proceeds of the sale of the commodity in the general fund of the county.

C. If any seized commodity remains unsold after being offered for sale pursuant to this section, the commissioner may donate the commodity to a nonprofit organization.

D. If the commodity is unfit for human consumption, the commissioner may destroy it.

(Ord. 1243 § 1, 2013)

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Section 110 Violations

Any person violating any of the provisions of this article shall be guilty of a misdemeanor which shall be punishable as provided in the Code. This punishment is separate and independent from any punishment or penalty provided for under any other law or regulation, including forfeiture. (Ord. 1243 §1, 2013)

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Section 120 Civil Penalties

Pursuant to Food and Agriculture Code Section 885, rather than pursuing a civil prosecution, the agricultural commissioner may levy a civil penalty against any person violating the provisions of this article. The civil penalty for each violation shall be, for a first violation, a fine of not more than five hundred dollars (\$500). For a second or subsequent violation, the fine shall be not less than one hundred dollars (\$100), nor more than one thousand dollars (\$1,000). Before a civil penalty is levied, the person charged with the violation shall receive notice of the nature of the violation and shall be given an opportunity to be heard. This shall include the right to review the evidence and a right to present evidence on his or her own behalf. Subdivision (e) of Food and Agriculture Code Section 43003 shall apply to any fine levied pursuant to this section. (Ord. 1243 § 1, 2013)

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Section 130 Transportation or Sale of Walnuts to Non-Processing Walnut Buying Operations Outside of the Walnut Buying Period is Prohibited

Walnuts that have not been dried or processed shall not be transported to, sold to, or received by, a non-processing walnut buying operation within the boundaries of Glenn County outside of the Walnut Buying Period, as established by the agricultural commissioner. (Ord. 1243 § 1, 2013)

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