



**Tulare County Agricultural
Commissioner/Sealer
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

KUYLER CROCKER
District One
PETE VANDER POEL
District Two
AMY SHUKLIAN
District Three
J. STEVEN WORTHLEY
District Four
MIKE ENNIS
District Five

AGENDA DATE: March 28, 2017

Public Hearing Required	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>

CONTACT PERSON: Marilyn Kinoshita PHONE: 684-3350

SUBJECT: Public hearing to consider changes to the Nut Theft Ordinance to improve its enforceability.

- REQUEST(S):**
That the Board of Supervisors:
1. On March 28, 2017, introduce and waive the first reading of an Ordinance amending Article 8 of Chapter 5, Part VI of the Ordinance Code pertaining to the theft of nuts.
 2. Set the second hearing for April 18, 2017.
 3. On April 18, 2017, hold a public hearing and adopt an ordinance amending Article 8 of Chapter 5, Part VI of the Ordinance Code pertaining to the theft of nuts.
 4. Direct the Clerk to publish a summary of the ordinance and post a full copy of the ordinance after adoption as required by law.

SUMMARY:
In 2009, your Board adopted an ordinance under the authority of California Food and Agriculture Code (FAC) section 866 to protect the Agricultural Industry of this County. The intent of the Ordinance was to establish a means of verifying ownership of nuts 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. Recently, some local growers and processors have expressed a need for the County to revisit the ordinance and tighten up some of its aspects.

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This amendment would provide additional requirements regarding the transportation and identification of nut crops; introduce a checks-only period in addition to the walnut cash-buying period. During the checks-only period, all walnut buyers are required to be licensed by the State as an Agent, Dealer or Processor. In addition, all sales would be required to be in the form of check or money order, which the seller may collect on or after the tenth calendar day after the date of sale

The following options have been identified for improving the current ordinance.

1. Add to enforcement options by authorizing the Agricultural Commissioner to impose administrative fines, per the Food and Agriculture Code, of up to \$500 for a first violation, and between \$750 and \$1,000 for a second or subsequent violation.
2. Require the use of original, sequentially-numbered "Proof of Ownership Certificates" issued by the Agricultural Commissioner as the only acceptable evidence of ownership for possessors of nuts other than the grower.
3. Require thumbprints of sellers on Proof of Ownership Certificates.
4. Impose a 10-day hold on receipt of checks/money orders for sale of nuts to discourage sales of stolen nuts.
5. Make clear that cash purchases can only be made during the annual Walnut Cash Buying Period and then only by persons with a current "Cash Buyer" license from the State. No "Cash for Walnuts" or "We Buy Walnuts" signs are to be posted, and no roadside stands for cash purchase of walnuts can be open except during the Walnut Cash Buying Period.
6. Ban all cash sales/purchases of walnuts in Tulare County prior to the Walnut Cash Buying Period to discourage sales of stolen walnuts.
7. Eliminate certain exemptions from the ordinance, including the exemptions for commodities transported directly by a grower or agent from the farm or ranch where grown to a commercial packing plant; commodities in possession of any person as a result of gleaning with permission of the grower; and commodities in the possession of an agent of a nut processing plant.
8. Add a definition for "Verified Small Grower" as defined as any grower who harvests less than five hundred pounds of in-shell walnuts from no more than 5 trees annually and obtains a small grower's certificate issued by the Agricultural Commissioner.

A prior Amendment was approved as to form by the County Counsel and was

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approved by the Board of Supervisors on August 28, 2012.

FISCAL IMPACT/FINANCING:

The Agricultural Commissioner anticipates hiring one part-time employee for the duration of the walnut harvesting period at a cost of \$10,822.15 additional net County cost to the General Fund, and would be a new cost for this program. The associated expenditures for this program will be included in the Agricultural Commissioner's requested Fiscal Year 2017/2018 budget.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

The County's five-year strategic plan includes the Economic Well-Being Initiative to promote economic development opportunities, effective growth management, and a quality standard of living. This request to amend and add sections of Article 8 of Chapter 5 for the purpose of preventing the theft of nuts being produced and processed in the county will insure timely continuance of a long-standing program of protecting the County's agriculture-based economy by insuring that buying of nuts is controlled.

ADMINISTRATIVE SIGN-OFF:

Marilyn Kinoshita
Agricultural Commissioner
Sealer of Weights and Measures

Cc: Auditor/Controller
County Counsel
County Administrative Office (2)

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF PUBLIC HEARING TO)
CONSIDER CHANGES TO THE NUT) Resolution No. 2017-0188
THEFT)
ORDINANCE TO IMPROVE ITS)
ENFORCABILTY)

UPON MOTION OF SUPERVISOR WORTHLEY, SECONDED BY
SUPERVISOR SHUKLIAN, THE FOLLOWING WAS ADOPTED BY THE BOARD OF
SUPERVISORS, AT AN OFFICIAL MEETING HELD MARCH 28, 2017, BY THE
FOLLOWING VOTE:

AYES: SUPERVISOR CROCKER, VANDER POEL, SHUKLIAN, WORTHLEY
AND ENNIS
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE

ATTEST: MICHAEL C. SPATA
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

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1. On March 28, 2017, introduced and waived the first reading of an Ordinance amending Article 8 of Chapter 5, Part VI of the Ordinance Code pertaining to the theft of nuts.
2. Set the second hearing for April 18, 2017.

Ag. Commissioner
BOS

DAY
3/29/17

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

**IN THE MATTER OF PUBLIC HEARING TO)
CONSIDER CHANGES TO THE NUT) Resolution No. _____
THEFT)
ORDINANCE TO IMPROVE ITS) Agreement No. _____
ENFORCABILITY)**

UPON MOTION OF SUPERVISOR _____, SECONDED BY SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: MICHAEL C. SPATA
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

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- 1. On April 18, 2017, held a public hearing and adopted an ordinance amending Article 8 of Chapter 5, Part VI of the Ordinance Code pertaining to the theft of nuts.
- 2. Directed the Clerk to publish a summary of the ordinance and post a full copy of the ordinance after adoption as required by law.