

LOCAL FOOD AND COMMUNITY SELF-GOVERNANCE ORDINANCE OF 2019

AN ORDINANCE TO PROTECT THE HEALTH AND INTEGRITY OF THE LOCAL FOOD SYSTEM IN THE TOWN OF PORTER, OXFORD COUNTY, MAINE

§1. Title

This ordinance, adopted by the town of **Porter** (hereinafter “the Town”), shall be known and may be cited as the “Local Food and Community Self-Governance Ordinance.”

§2. Preamble

We, the People of the Town have the right to produce, process, sell, purchase, and consume local foods thus promoting self-reliance, the preservation of family farms, and local food traditions. We recognize that family farms; sustainable agricultural practices; and food processing by individuals, families, and non-corporate entities offer stability to our rural way of life by enhancing the economic, environmental, and social wealth of our community. As such, our right to a local food system requires us to assert our inherent right to self-government. We recognize the authority to protect that right as belonging to the Town.

We have faith in our citizens’ ability to educate themselves and make informed decisions. We hold that certain federal and state regulations unnecessarily impede local food production and constitute a usurpation of our citizens’ right to foods of their choice. We support food that fundamentally respects human dignity and health; nourishes individuals and the community; and sustains producers, processors, and the environment. We are therefore duty bound under the Constitution of the State of Maine to protect and promote reasonably unimpeded access to local foods.

All individuals have a natural, inherent, and unalienable right to acquire, produce, process, prepare, preserve, and consume the food of their own choosing for their own nourishment and sustenance. Furthermore, all individuals have a right to barter, trade, and purchase food and to save and exchange seed from the sources of their own choosing for their own physical health and well-being. Every individual is fully responsible for the exercise of these rights, which may not be infringed.

§3. Purpose

It is the policy of this State to encourage food self-sufficiency for its citizens. The purpose of the Local Food and Community Self-Governance Ordinance is to:

1. Through local control, preserve the ability of individuals and communities to save and exchange seed, to produce, process, sell, purchase, and consume locally produced foods;
2. Ensure the preservation of family farms and traditional foodways through small-scale farming, food production, and community social events;
3. Improve the health and well-being of citizens of this State by reducing hunger and increasing food security through unimpeded access to wholesome, nutritious foods by encouraging ecological farming;
4. Promote self-reliance and personal responsibility by ensuring the ability of individuals, families and other entities to prepare, process, advertise, and sell foods directly to customers

intended solely for consumption by the customers or their families;

5. Enhance rural economic development and the environmental and social wealth of rural communities; and
6. Protect access to local food through direct producer-to-consumer transactions.

§4. Definitions

As used in this ordinance, unless the context otherwise indicates, the following terms have the meanings stated below:

- A. **COMMUNITY SOCIAL EVENT:** An event where people gather as part of a community for the benefit of those gathering or for the community, including, but not limited to, a church or religious social, school event, potluck, neighborhood gathering, library meeting, traveling food sale, fundraiser, craft fair, farmers' market, agricultural fair, and other public events.
- B. **DIRECT PRODUCER-TO-CONSUMER TRANSACTION:** An exchange of local food within a local food system between a producer or processor and a patron by barter, trade, or purchase on the property or premises owned, leased or rented by the producer or processor of the local food; at roadside stands, fundraisers, farmers' markets, and community social events; or through buying clubs, deliveries or community supported agriculture programs, herdshare agreements, and other private arrangements.
- C. **LOCAL FOOD SYSTEM:** A food system that integrates food production, processing, consumption, direct producer-to-consumer transactions, and traditional foodways to enhance the environmental, economic, social, and physical health of the municipality and its residents.
- D. **LOCAL FOOD:** Any food or food product that is grown, produced, processed, or prepared by individuals who exchange that food directly with patrons.
- E. **PATRON:** An informed individual who acquires local food directly from a processor or producer.
- F. **PROCESSOR:** An individual who processes or prepares products of the soil or animals for food or drink.
- G. **PRODUCER:** A farmer or gardener who grows or raises any plant or animal for food or drink.
- H. **TRADITIONAL FOODWAYS:** The cultural, social, and economic practices related to the production and consumption of food and the conveying of knowledge regarding food production and preparation.

§5. Authority

This ordinance is adopted and enacted pursuant to the inherent, inalienable, and fundamental right of the citizens of the Town to self-government, and under the authority recognized as belonging to the people of the Town by all relevant state and federal laws including, but not limited to the following:

The Declaration of Independence of the United States of America, which declares that governments are instituted to secure peoples' rights, and that government derives its just powers from the consent of the governed.

Article I, §2 of the Constitution of the State of Maine, which declares *inter alia*: “all power is inherent in the people; all free governments are founded in their authority and instituted for their benefit, [and that] they have therefore an unalienable and indefeasible right to institute government and to alter, reform, or totally change the same when their safety and happiness require it.”

Article VIII, Part Second of the Constitution of the State of Maine, which establishes Home Rule: “The inhabitants of any municipality shall have the power to alter and amend their charters on all matters, not prohibited by Constitution or general law, which are local and municipal in character.”

§1-A of Title 7 of the Maine Revised Statutes, which states *inter alia*: “The survival of the family farm is of special concern to the people of the State, and the ability of the family farm to prosper, while producing an abundance of high quality food and fiber, deserves a place of high priority in the determination of public policy. For this purpose there is established the Department of Agriculture, Forestry, and Conservation”

§1-B of Title 7 of the Maine Revised Statutes, which states *inter alia*: The [...] preservation of rural life and values in the State [is] to be the joint responsibility of all public agencies, local, state and federal, whose policies and programs substantially impact the economy and general welfare of people who reside in rural Maine, such as the development and implementation of programs that assist in the maintenance of family farms [...] and improve health and nutrition.

§284 of Title 7, Chapter 8-F, Maine Food Sovereignty Act, which states *inter alia*: “a municipality may adopt ordinances regarding direct producer-to-consumer transactions and the State shall recognize such ordinances by not enforcing those state food laws with respect to those direct producer-to-consumer transactions that are governed by the ordinance.”

§3001 of Title 30-A of the Maine Revised Statutes, which implements Home Rule and grants municipalities all powers necessary to protect the health, safety, and welfare of the residents of the Town where those powers have been conferred on the towns by the Legislature or not otherwise limited.

§ 2 of Title 7, “The commissioner (DACF – Department of Agriculture, Conservation and Forestry) shall be concerned with the quality of life of Maine farmers and rural communities. To accomplish these objectives, the commissioner is authorized for, or on behalf of, Maine's farmers and rural community: to participate directly or indirectly in programs to encourage and enable individuals to enter agricultural or other rural enterprises. The commissioner may study such issues and, consistent with statute, take such actions either individually, for, or on behalf of, the State's farmers or rural residents, or jointly with such other persons, agencies or organizations as the commissioner determines may benefit the State's farmers and rural communities.”

§ 211 of Title 7, “It is the policy of the State to encourage food self-sufficiency for the State. State institutions and school districts in the State shall purchase food produced by Maine farmers or

fishermen, provided that food is available in adequate quantity and meets acceptable quality standards, and is priced competitively.’’

§ 219 of Title 7, The department (DACF – Department of Agriculture, Conservation and Forestry) shall conduct an educational marketing campaign to promote food self-sufficiency by encouraging the public to grow gardens, raise farm animals, preserve garden-grown food and engage in other local food cultivation initiatives.

§ 241 of Title 7, The commissioner (DACF – Department of Agriculture, Conservation and Forestry), shall address the following needs: maintaining a lasting and sustainable agriculture; protecting our critical rural infrastructures; guaranteeing continued and effective production and marketing of fresh fruits, vegetables and livestock; preserving prime farmland; conserving our soils and water; and generally ensuring the quality of life in rural Maine.

§ 415 of Title 7, Farmer’s Market (subsection 1 and 2) Definitions & Prohibitions

§ 202 of Title 7-A, Mission: The department shall implement public policy that supports the work of citizens who derive their livelihood through agricultural. Guiding principles: The following principles are adopted to guide the department in the performance of its duties: Farming and other natural resource-based economic activity are important to the State's economy and quality of life; The State's rural jobs and multifaceted natural resources are at the same time a rich heritage to be carefully passed to successive generations and an evolving economic engine driving the food and fiber components of the State’s workplaces; Strengthening farming is vital to enhancing the State's natural resources economy; and the State's land and water are the common denominators for fresh, locally grown food, processed food, horticulture, and livestock.

Part 2 Municipalities - Title 30-A M.R.S.A., (§2003 - General Provisions), (§2101, §2109, §2201, §2301, §2311, §2321 – Organization & Interlocal Cooperation), (§3002, §3003, §3004, §3005, §3006, §3007, §3009, §3009-A – Ordinance authority & Limitations), (§5285 – Development), (§5752 – Tax Base Sharing)

Title 37-B M.R.S.A., (§702, §781, §804, §834 – Maine Emergency Management Agency), (§922, § 923 – Emergency Management Assistance Compact)

The “Civil Emergency Preparedness Ordinance of the Town of Porter”, 2006

Department of Homeland Security, National Response Plan, November 2004

Public Law 93-288, as amended by Public Law 100-707, Robert T. Stafford Disaster Relief & Emergency Assistance Act

Federal Emergency Management Agency. Objectives for Local Emergency Management. CPG 1-5, July 1984

Federal Emergency Management Agency. Guide for All-Hazard Emergency Operations Planning. SLG-101, September 1996

§6. Statements of Law

- A. **Right to Self-Governance.** Citizens the Town have the right to a form of governance which recognizes that all power is inherent in the people, that all free governments are founded on the people’s authority and consent.
- B. **Right to Acquire and Produce Food.** Citizens of the Town possess the right to save and exchange seed and to produce, process, sell, purchase, and consume local foods of their choosing.
- C. **Exemption from Licensure and Inspection.** The producers and processors of local food intended for direct producer-to-consumer transactions in the Town governed by this ordinance shall be exempt from state licensure and inspection. In accordance with Section 284 of the Maine Food Sovereignty Act, the State of Maine shall not enforce those state food laws, rules, or regulations with respect to those transactions as defined in Section 4. The transactions enumerated in Section 4 are governed by this ordinance and provide the context otherwise indicated as stated in Section 282 of the Maine Food Sovereignty Act
- D. **Meat and Poultry.** This ordinance is not applicable to any meat or poultry products that are required to be produced or processed in compliance with the Maine Meat and Poultry Inspection Program.

This ordinance is applicable to shared animal ownership agreements in compliance with the federal acts as defined in Title 22, Chapter 562-A, §2511 of the Maine Revised Statutes and similar private contractual agreements, herdshare agreements, and buying clubs.

- E. **Liability Protection.** Producers and processors of local food may enter into private agreements with patrons to waive any liability for the consumption of local food .

§7. Civil Enforcement.

Any individual citizen of the Town shall have standing to enforce any rights secured by this ordinance which have been threatened or contested by any person, whether natural or juridical, and may seek relief both in the form of injunctive and compensatory relief from a court of competent jurisdiction.

§8. Effect

This ordinance shall be effective immediately upon its enactment.

§9. Severability Clause

To the extent any provision of this ordinance is deemed invalid by a court of competent jurisdiction, such provision will be removed and the balance of the ordinance shall remain valid.

§10. Repealer

All inconsistent provisions of prior ordinances adopted by the Town are hereby repealed, but only to the extent necessary to remedy the inconsistency.

§11. Human Rights and Constitutionality

Nothing in this ordinance shall be construed as authorizing any activities or actions that violate human rights protected by the U.S. Constitution or the Constitution of the State of Maine.

§12. Mutual Recognition and Inter-municipal Government Collaboration

The Town hereby recognizes producers and processors of local foods in other municipalities that have also adopted a Local Food and Community Self-Governance Ordinance. Those producers and processors of local foods from other municipalities operating under a similar ordinance may also operate under this ordinance.