

Machias Local Food and Community Self-Governance Ordinance

AN ORDINANCE TO PROTECT THE HEALTH AND INTEGRITY OF THE LOCAL FOOD SYSTEM IN THE TOWN OF MACHIAS , WASHINGTON COUNTY, MAINE.

Section 1. Name. This Ordinance shall be known and may be cited as the “Local Food and Community Self-Governance Ordinance.”

Section 2. Definitions.

As used in this ordinance:

- (a) “Patron” means an individual who is the last person to purchase any product or preparation directly from a processor or producer and who does not resell the product or preparation.
- (b) “Home consumption” means consumed within a private home.
- (c) “Local Foods” means any food or food product that is grown, produced, or processed in Maine by individuals who sell directly to their patrons through farm-based sales or buying clubs, at farmers markets, roadside stands, fundraisers or at community social events.
- (d) “Processor” means any individual who processes or prepares products of the soil or animals for food or drink.
- (e) “Producer” means any farmer or gardener who grows any plant or animal for food or drink.
- (f) “Community social event” means 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 and other public events.

Section 3. Preamble and Purpose. We the People of the Town of Machias, Washington County, Maine 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 offers 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 of Machias.

We have faith in our citizens’ ability to educate themselves and make informed decisions. We hold that federal and state regulations impede local food production and restricts 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 unimpeded access to local foods.

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The purpose of the Local Food and Community Self-Governance Ordinance is to:

- (i) Provide citizens with unimpeded access to local food;
- (ii) Enhance the local economy by promoting the production and purchase of local agricultural products;
- (iii) Protect access to farmers' markets, roadside stands, farm based sales and direct producer to patron sales;
- (iv) Support the economic viability of local food producers and processors;
- (v) Preserve community social events where local foods are served or sold;
- (vi) Preserve local knowledge and traditional food ways.

Section 4. Authority. This Ordinance is adopted and enacted pursuant to the inherent, inalienable, and fundamental right of the citizens of the Town of Machias 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 Maine Constitution, which declares: "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 indefensible right to institute government and to alter, reform, or totally change the same when their safety and happiness require it."

§3001 of Title 30-A of the Maine Revised Statutes, which grants municipalities all powers necessary to protect the health, safety, and welfare of the residents of the Town of Machias.

§211 of Title 7 of the Maine Revised Statutes which states: "it is the policy of the State to encourage food self-sufficiency for the State."

Section 5. Statements of Law.

Section 5.1. Licensure/Inspection Exemption. Producers or processors of local foods in the Town of Machias are exempt from licensure and inspection provided that the transaction is only between the producer or processor and a patron when the food is sold for home consumption. This includes any producer or processor who sells his or her products at farmers' markets or roadside stands; sells his or her products through farm-based sales directly to a patron; or delivers his or her products directly to patrons.

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Section 5.1.a. Licensure/Inspection Exemption. Producers or processors of local foods in the Town of Machias are exempt from licensure and inspection provided that their products are prepared for, consumed, or sold in accordance with; **Section 2. Definitions subsection F.** Patrons, producers, and processors are encouraged to educate themselves on proper food handling, storage, and food preparation.

Section 5.2. Right to Access and Produce Food. Machias citizens possess the right to produce, process, sell, purchase, and consume local foods of their choosing.

Section 5.3. Right to Self-Governance. All citizens of Machias possess 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.

Section 5.4. Right to Enforce. Machias citizens possess the right to adopt measures which prevent the violation of the rights enumerated in this Ordinance.

Section 6. Statement of Law. Implementation. The following restrictions and provisions serve to implement the preceding statements of law.

Section 6.1. State and Federal Law. It shall be unlawful for any law or regulation adopted by the state or federal government to interfere with the rights recognized by this Ordinance. It shall be unlawful for any corporation to interfere with the rights recognized by this Ordinance. The term "corporation" shall mean any business entity organized under the laws of any state or country.

Section 6.2. Patron Liability Protection. Patrons purchasing food for home consumption may enter into private agreements with those producers or processors of local foods to waive any liability for the consumption of that food. Producers or processors of local foods shall be exempt from licensure and inspection requirements for that food as long as those agreements are in effect.

Section 6.3. Municipal Liability Protection: The Town of Machias assumes no liability for any products utilized under this ordinance. Nothing within this ordinance indemnifies the producer or the processors from liability for their products.

Section 7. Civil Enforcement. The Town of Machias may enforce the provisions of this Ordinance through seeking equitable relief from a court of competent jurisdiction. Any individual citizen of the Town of Machias shall have standing to vindicate any rights secured by this ordinance which have been violated or which are threatened with violation, and may seek relief both in the form of injunctive and compensatory relief from a court of competent jurisdiction.

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Date Adopted by Board of Selectmen: 8/9/2017

Signature of Board Members:

Warren P. Gay

Reslee D. Jaynes

Paul Johnson-Bolke

William K. Kite

John R. Kite

Date Adopted At Town Meeting: 8/9/2017