

Local Food and Community Self-Governance Ordinance of 2013

AN ORDINANCE TO PROTECT THE HEALTH AND INTEGRITY OF THE LOCAL FOOD SYSTEM IN THE TOWN OF ISLE AU HAUT, KNOX 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 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 Isle au Haut, Knox 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 Isle au Haut.

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 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 unimpeded access to local foods.

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 foodways.

Section 4. Authority. This Ordinance is adopted and enacted pursuant to the inherent, inalienable, and fundamental right of the citizens of the Town of Isle au Haut to self-government, and under the authority

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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 indefeasible 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 Isle au Haut.

§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 Isle au Haut 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.

Section 5.1.a. Licensure/Inspection Exemption. Producers or processors of local foods in the Town of Isle au Haut are exempt from licensure and inspection provided that their products are prepared for, consumed, or sold at a community social event.

Section 5.2. Right to Access and Produce Food. Isle au Haut 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 Isle au Haut 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. Isle au Haut 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.

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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 7. Civil Enforcement. The Town of Isle au Haut may enforce the provisions of this Ordinance through seeking equitable relief from a court of competent jurisdiction. Any individual citizen of the Town of Isle au Haut 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.

Section 8. Town Action against Pre-emption. The foundation for making and adoption of this law is the peoples' fundamental and inalienable right to govern themselves, and thereby secure their rights to life, liberty, and the pursuit of happiness. Any attempt to use other units and levels of government to preempt, amend, alter or overturn this Ordinance or parts of this Ordinance shall require the Town to hold public meetings that explore the adoption of other measures that expand local control and the ability of citizens to protect their fundamental and inalienable right to self-government. It is declared that those other measures may legitimately include the partial or complete separation of the Town from the other units and levels of government that attempt to preempt, amend, alter, or overturn this Ordinance.

Section 9. Effect. This Ordinance shall be effective immediately upon its enactment.

Section 10. Severability Clause. To the extent any provision of this Ordinance is deemed invalid by a court of competent jurisdiction, such provision will be removed from the Ordinance, and the balance of the Ordinance shall remain valid.

Section 11. Repealer. All inconsistent provisions of prior Ordinances adopted by the Town of Isle au Haut are hereby repealed, but only to the extent necessary to remedy the inconsistency.

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"There is no absolute right to consume or feed children any particular food."

—FDA written testimony in an Iowa U.S. District Court, April 26th 2010

The USDA and FDA have made rules and regulations, enforced by Maine's Department of Agriculture, that have, do, and will threaten the very existence of our farms, our farm families and our rural way of life—A way of life that has worked just fine without federal/state oversight for hundreds of years, and is highly sought-after today.

This Ordinance preserves our constitutional right to grow, sell and eat the foods of our choice by:

PROTECTING direct farmer/grower/processor-to-patron sales. So long as there is one willing seller and one willing buyer, the producer or processor of local foods is exempt from federal or state permitting, certification or licensure. Patrons may enter into private contractual agreements with a producer or processor for their products.

PRESERVING our local heritage. As federal agencies increasingly require food to be pasteurized, homogenized, centralized and sterilized, long held rural traditions are under attack all over the country. The ordinance protects bean suppers, bake sales, traveling food fund raisers, holiday fairs and other community social events that are the warp and weft of the fabric of our rural life.

ALLOWING family farms to be profitable and viable. Without this Ordinance, small, diversified farms face a growing number of burdensome requirements for facilities and infrastructure geared towards industrial food factory "farms." A one-size fits all approach is not the answer to food safety.

PROTECTING the livelihoods of our food producers by allowing them to continue to sell their products. Farmers, growers, and processors selling in our own towns have an honest incentive to grow safe food as their reputations are based solely on the quality of their products. The new food-borne illnesses common in the factory-food system do not have their roots on our farms.

GROWING our local economy. Buying local keeps money in our community and helps farms remain economically viable as they supply the expanding demand for locally grown food. Western Hancock County is now a food-tourist destination due to the excellence of our farms and farmers markets.

PROMOTING public health. The biggest threat to our nation's food supply—according to the USDA—is concentrated factory-style production, centralized processing, and long distance transportation. Our small farms and local processors are the solution. Raising meat, dairy, eggs, fruits, and vegetables as close as possible to the kitchens of our customers, the end-users, increases our food safety.

PROTECTING THE NATURAL BEAUTY OF WESTERN HANCOCK COUNTY by saving farmland. Farmland provides food and cover for wildlife, builds soil health, protects watersheds and improves air quality. The Local Foods Ordinance helps preserve Maine's farmland by safeguarding economic opportunity for the family farmers, growers, and processors in Western Hancock County. This in turn, helps preserve Maine's wildlife, soils, watersheds and our rural way of life.

Local agriculture is sustainable only when our family farmers and local processors are free to sell their food products directly to their customers, as they have since time out of mind. Sustainable farming makes our environment, economy, and community all grow stronger—from the roots up!

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