



**TOWN OF NEWBURGH, PENOBSCOT COUNTY, MAINE
LOCAL FOOD AND COMMUNITY SELF-GOVERNANCE ORDINANCE (LFCSGO)**

SECTION 1. NAME. This Ordinance shall be known as, and may be cited as, the "Local Food and Community Self- Governance Ordinance."

SECTION 2. DEFINITIONS. As used in this ordinance:

1. **LOCAL FOOD.** "Local Food" means any food, food product, or drink that is grown, produced, or processed by Producers or Processors, as herein defined, who sell directly to their Patrons through farm- or home-based sales or buying clubs, at roadside stands, fundraisers, or at community social events.
2. **PRODUCER.** "Producer" means any farmer or gardener who grows any plant for food or drink or raises any animal for food or drink.
3. **PROCESSOR.** "Processor" means any individual who processes or prepares local food or drink in a private home kitchen.
4. **PATRON.** "Patron" means, with regard to local foods, the last person who:
 - a. Purchases for home consumption or consumes the local food;
 - b. Does not resell the local food; and
 - c. Has been informed that the local food was produced in an uninspected, unlicensed establishment and that the local food has not been inspected.
5. **COMMUNITY SOCIAL EVENT.** "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, and other public event.
6. **FOODWAYS.** "Foodways" are the cultural, social, and economic practices relating to the production and consumption of food.
7. **HOME CONSUMPTION.** "Home consumption" means consumed within a private home.

SECTION 3. PREAMBLE AND PURPOSE. We the People of the Town of Newburgh, County of Penobscot, Maine have the right to produce, process, sell, purchase, and consume local foods, thus promoting self-reliance, the

preservation of family farms, ecologically sound farming practices, and local food traditions. We recognize that environmentally sustainable family farms, and local food processing by individuals and families 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 of Newburgh.

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 wholesome food that nourishes individuals and the community, sustains producers and processors, and respects 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:

1. Provide citizens with unimpeded access to local food;
2. Enhance the local economy by promoting the purchase of farm food products and homemade food;
3. Protect access to farm-based sales and direct producer/processor to patron sales;
4. Support the economic viability of producers and processors;
5. Preserve community social events where local foods are served or sold; and
6. 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 Newburgh 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.

THE CONSTITUTION OF THE STATE OF MAINE, ARTICLE I, SECTION 2,

which declares: "All power is inherent in the people; all free governments are founded in their authority and instituted for their benefit; 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."

MAINE REVISED STATUTES, TITLE 7, SECTION 1-A, which states: "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."

MAINE REVISED STATUTES, TITLE 7-A, SECTION 201-A, which states that it is the policy of this State to encourage food self-sufficiency for its citizens. The Department Of Agriculture, Conservation And Forestry shall support policies that:

1. Through local control, preserve the ability of communities to produce, process, sell, purchase and consume locally produced foods;
2. Ensure the preservation of family farms and traditional foodways through small-scale farming and food production;
3. Improve the health and well-being of citizens of this State by reducing hunger and increasing food security through improved access to wholesome, nutritious foods by supporting family farms and encouraging sustainable farming and fishing;
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 patrons intended solely for consumption by the patrons or their families; and
5. Enhance rural economic development and the environmental and social wealth of rural communities.

MAINE REVISED STATUTES, TITLE 30-A, SECTION 3001, which says that municipalities may enact ordinances to protect the welfare of their inhabitants and that there is a rebuttable presumption that any ordinance enacted under this section is a valid exercise of a municipality's home rule authority.

SECTION 5.1. LICENSURE/INSPECTION. Producers and Processors in the Town

of Newburgh are not subject to licensure or inspection provided:

- a) Transactions are only between producers or processors and patrons. This includes sales that: 1) are made directly to a patron and 2) occur on the farm where the farm food product originated; at the home where the homemade food or drink was produced; at the home of the Patron; or at farmers' markets or roadside stands.
- b) Products are prepared for, consumed, or sold at a community social event.
- c) Patrons are given written notice of, or a sign is prominently posted, and the patrons understand, that the product is not manufactured under license from or inspected by any governmental agency.

SECTION 5.2. RIGHT TO ACCESS AND PRODUCE FOOD. The Citizens of the Town of Newburgh possess the right to save and exchange seed and to produce, process, sell, purchase, and consume local food of their choosing.

SECTION 5.3. RIGHT TO SELF-GOVERNANCE. The Citizens of the Town of Newburgh possess the right to a form of governance that recognizes that all power is inherent in the people and that all free governments are founded on the people's authority and consent.

SECTION 5.4. RIGHT TO ENFORCE. The Citizens of the Town of Newburgh 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.

- 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.
- 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.

SECTION 7. CIVIL ENFORCEMENT. The Town of Newburgh may enforce the

provisions of this Ordinance through seeking equitable relief from a court of competent jurisdiction. Any individual citizen of the Town of Newburgh 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 PREEMPTION. The foundation for making and adoption of this law is the people's 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.

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 Newburgh are hereby repealed, but only to the extent necessary to remedy the inconsistency.

SECTION 12. 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.