



**GARDINER CITY COUNCIL  
AGENDA ITEM INFORMATION SHEET**



<b>Meeting Date</b>	03/20/2019	<b>Department</b>	City Council
<b>Agenda Item</b>	4.6 Food Sovereignty Ordinance Samples		
<b>Est. Cost</b>	n/a		

**Background Information**

Attached are a couple of food sovereignty ordinances that the Council requested.

Food sovereignty is the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems.

An Act to Recognize Local Control Regarding Food Systems, LD725, took effect on November 1, 2017. LD725 applies to sales conducted at farms and homes (i.e. where the food was produced) in towns that have formally declared food sovereignty. The law was amended in October to exclude meat and poultry processing, and to exclude sales at farmers' markets or other public venues. LD725 applies to sales that take place directly between the producer and consumer at the producer's farm/residence. LD725 only applies in towns that have declared food sovereignty, and exclusively applies to food produced and sold within food sovereign towns. Prior to taking effect on November 1, 2017, the law was amended to exclude meat and poultry processing. The amendment states that the law pertains to sales of food at the "site of production" within a food sovereign town. The intention of the committee was that the law only apply to sales of food at farms and homes; the law does not apply to food sold at farmers' markets. (According to Rep. Craig Hickman, "At the site of production' is generally understood to mean on a premise controlled by the producer where the food or food products are produced, such as a farm, homestead, or in a home kitchen.")

<b>Requested Action</b>	n/a
<b>City Manager and/or Finance Review</b>	n/a
<b>Council Vote/ Action Taken</b>	
<b>Departmental Follow-Up</b>	

<b>City Clerk Use Only</b>	1 <sup>st</sup> Reading _____	Advertised _____	EFFECTIVE DATE _____
	2 <sup>nd</sup> Reading _____	Advertised w/in 15 Days _____	
	Final to Dept _____	Updated Book _____	Online _____

entertainment license (measured as a line between the public entrance of the adult amusement store and the closest point on the property line of the incompatible use).

**Sec. 11-1216 Entertainment License**

No licensee shall permit on his licensed premises any music, except radio or other mechanical device, or any dancing or entertainment of any type or in any form.

**Sec. 11-1217 Suspension or Revocation**

A license to operate an Adult Amusement Store, as provided for by this Article, may be denied, suspended, or revoked by the Municipal Officers for either a violation of or failure to comply with any of the provisions of this Article. Determination of the severity of the violation and whether or not a denial, suspension, or revocation is warranted, shall be made by the Municipal Officers, after notice and hearing.

**Sec. 11-1218 Appeals**

An appeal from any final decision of the Municipal Officers by any party with standing shall be made to the Superior Court in accordance with the provisions of Maine Rule of Civil Procedure 80B. Ch. 11, Sec. 11-

**Sec. 11-1219 Penalty**

In addition to any action which the Municipal Officers may take, violation of any provision of this Article shall be a civil violation and subject to a fine not exceeding five hundred dollars (\$500) per day. Each day that a violation continues is a separate offense.

**ARTICLE XIII  
Local Food Sovereignty Ordinance**

**Sec. 11-1301 Short Title**

This ordinance shall be known and may be cited as the "Local Food Sovereignty Ordinance."

**Sec. 11-1302 Purpose**

Rockland residents have the right to grow, produce, harvest, process, sell, purchase, and consume local foods, thus promoting self-reliance, the preservation of our local food economy, our family farms and our food traditions. We recognize that family farms, sustainable agricultural practices, and food processing by individuals, families and non-corporate entities offers stability by enhancing the economic, environmental and social wealth of our community. We support food that nourishes the individual and the community, and sustains producers, processors, consumers and the environment.

We hope to:

- a. Provide citizens with unimpeded access to local food,
- b. Enhance the local economy by promoting the production and purchase of local agricultural products,
- c. Protect access to farmer's markets, roadside stands, farm based sales, and direct producer to consumer sales,
- d. Support the economic viability of local food producers and processors,
- e. Support and promote small-scale, local and backyard farming,
- f. Preserve community social events where local foods are served or sold,
- g. Preserve local knowledge and traditional foodways.

**Sec. 11-1303 Words and Phrases Defined**

For the purposes of this article, certain words and phrases are defined as follows:

1. **Community Social Event:** An event for the benefit of those gathering or for the larger community. Including, but not limited to a church or religious social, a school event, a potluck, a neighborhood gathering, a library meeting, a fundraiser, a craft fair, a farmer's market or other public events.

2. **Consumer:** An individual who is the last person to purchase any food or food product directly from a producer or processor and who does not resell the food or food product.

Sec. 14-50. - Food sovereignty license exemption.

- (a) *Intent and purpose.* The intent and purpose of Auburn's Food Sovereignty Ordinance is to ensure that residents are provided unimpeded access to local food and to reduce governmental regulation of the local food system to the fullest extent permitted by home rule authority under 30-A M.R.S.A. § 3001, the Constitution of Maine, Article VIII, Part Second, and pursuant to 7-A M.R.S.A. § 201 et seq.
- (b) *Definitions.* As used in this section, the following words and phrases shall have the meanings indicated:

*Consumer* means any individual who purchases or otherwise receives local food or food products from a producer, grower or processor.

*Grower* means any individual who grows local food or food products.

*Local food or food products* means food, food products or drink grown, produced and processed by individuals within Auburn who sell or provide directly to consumers.

*Local food system* means a community food system within a municipality that integrates food production, processing, consumption, direct producer-to-consumer exchanges and other traditional foodways to enhance the environmental, economic, social and nutritional health and well-being of Auburn and its residents.

*Processor* means any individual who processes or prepares local food or food products.

*Producer* means any individual who produces local food or food products.

- (c) *Exemption.* Producers, growers, and processors of local food or food products in the city are exempt from licensure and inspection with respect to their provision or sale of local food and food products to consumers within the local food system of the city. To the extent this section conflicts with any portion of the Code of Ordinances of the city, this section shall prevail and, as it pertains to this section, that portion of code shall be inapplicable.

(Ord. No. 07-08072017, 8-21-2017)

# Ordinance Template

The original template has been replaced by a new version that has been revised to reflect the the MAINE FOOD SOVEREIGNTY ACT (MFSA). The text is below.

The ordinance template can be downloaded below:

[Template2018.doc \(Word 97-2003\)](#)

[Template2018.pdf](#)

Frequently asked questions can be downloaded here: [LFCSGO FAQs](#)

## LOCAL FOOD AND COMMUNITY SELF-GOVERNANCE ORDINANCE OF 2018 AN ORDINANCE TO PROTECT THE HEALTH AND INTEGRITY OF THE LOCAL FOOD SYSTEM IN THE TOWN OF \_\_\_\_\_, \_\_\_\_\_ COUNTY, MAINE

### §1. Title

This ordinance, adopted by the town of \_\_\_\_\_ (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.

## **§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.

## Christine Landes

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**From:** Barbara Skelton  
**Sent:** Thursday, March 14, 2019 3:44 PM  
**To:** Christine Landes  
**Cc:** Thomas Fiorelli  
**Subject:** FW: food sovereignty ordinances

As requested.

Barbara E. Skelton  
Code Enforcement Officer/Assistant Planner  
City of Gardiner

[ceo@gardinermaine.com](mailto:ceo@gardinermaine.com)

FIRST PREVENTERS: A First Preventer may go under the title of building inspector, building official, code enforcement officer, fire chief, fire marshal, building safety official, electrical inspector, plumbing inspector, plan reviewer or health officer. But the labels merely obscure their common mission: to prevent harm by ensuring compliance with building safety codes before a disaster occurs. From hurricanes to tornados, floods, wildfires and earthquakes, building safety codes administered by First Preventers play a major role in saving lives, protecting property and reducing recovery costs often paid for by taxpayer dollars.

**From:** Pottle, Jonathan [<mailto:JPottle@eatonpeabody.com>]  
**Sent:** Tuesday, March 6, 2018 11:28 AM  
**To:** Barbara Skelton <[ceo@gardinermaine.com](mailto:ceo@gardinermaine.com)>  
**Subject:** FW: food sovereignty ordinances

FYI Only

**From:** Becky Seel [<mailto:rseel@memun.org>]  
**Sent:** Monday, March 05, 2018 2:37 PM  
**To:** [nburns@jbggh.com](mailto:nburns@jbggh.com); William H. Dale; Sally J. Daggett; Shana Cook Mueller; Philip Saucier; David M. Kallin; Leah Rachin; Bill Lee; Jennifer Thompson; Collins, Kristin M.; [ebearor@rudmanwinchell.com](mailto:ebearor@rudmanwinchell.com); Hamilton, Andy; [bkelly11@bluestreakme.com](mailto:bkelly11@bluestreakme.com); [jkatsiaficas@perkinsthompson.com](mailto:jkatsiaficas@perkinsthompson.com); [lbragg@bernsteinshur.com](mailto:lbragg@bernsteinshur.com)  
**Cc:** Susanne Pilgrim  
**Subject:** food sovereignty ordinances

Hello Everyone,

The MMA Legal Services Department has become aware that municipalities are increasingly being asked to adopt food sovereignty ordinances by citizen groups and they specifically are being asked to adopt the "model" that is posted on the "Local Food Rules" website. <http://localfoodrules.org/ordinance-template/> We have concerns about the model that is posted on that website because we think it doesn't conform to the revised Maine statute. Some town managers are hoping that someone will develop a model ordinance that does comply. We are hesitant to develop a model, not knowing for sure whether the federal government may raise other concerns about the Maine law, now that the concerns about beef and poultry inspections have been addressed.

I offered to reach out to a number of private municipal attorneys to see if you share our concerns and to see if any of you have prepared food sovereignty ordinances for your client towns that differ from the "model." We would be very grateful for any thoughts about these ordinances that you would be willing to share. We'd also be interested in learning whether any of your client towns/cities have adopted this type of ordinance and whether the ordinance is identical to



the "model" or whether you worked with them to develop something different. We are aware of a farmers market website that has posted a list of towns and cities that have adopted ordinances: <http://www.maine farmers markets.org/food-sovereignty/> . I haven't looked at those ordinances to see if they were adopted before the Legislature revised the Maine statute.

Thanks very much for your help with this. Perhaps this can be a topic on the agenda for the April ROMA Group meeting.

Becky

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