

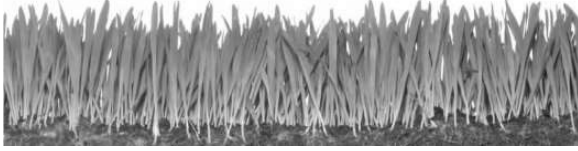
Date: July 2024

To: Interested parties

Re: Local Food and Community Self-governance Ordinance (LFCSGO)

Contact: Through our website [localfoodrules.org](http://localfoodrules.org)

Subject: Common questions



Local Food Rules created the original, widely-used, model ordinance template. Since 2011 with the first five towns, LFCSGOs have been adopted by nearly 25% of Maine communities. While the early adoption of local food ordinances was based on Maine's home rule statutes, Article 1, Section 2 of Maine's Constitution, and other agricultural statutes, food sovereignty is now recognized explicitly in Maine statute by **TITLE 7, CHAPTER 8-F: MAINE FOOD SOVEREIGNTY ACT**. Related to food sovereignty, the State of Maine amended its constitution enshrining the right to food in its **DECLARATION OF RIGHTS, SECTION 25: RIGHT TO FOOD**.

### Q1. How does the Right to Food constitutional amendment affect the Maine Food Sovereignty Act?

**These are complimentary pieces of law.** The amendment enshrines and protects an individual's right to food, including saving and exchanging seed, and the right to grow, raise, produce, harvest and consume food of one's own choosing. The right exists and is protected by constitutional law, but it is up to individuals to exercise it, just like our other constitutionally protected rights (See Article 1: Maine's Declaration of Rights including freedom to enjoy and defend life and liberty, acquiring and protecting property, pursuing and obtaining safety and happiness, et al).

The Maine Food Sovereignty Act passed in 2017 recognized the authority of towns to enact ordinances and respects municipal authority (aka local control) to govern direct exchanges of food. If the town chooses not to enact a LFCSGO, there is nothing for the state to recognize and respect, thus all applicable state food laws and rules apply.

### Q2. Now that Maine has a food sovereignty law, is it necessary to adopt a LFCSGO?

**Yes.** The Maine Food Sovereignty Act (MFSA) applies only if a municipality "opts in" by adopting an ordinance.

### Q3. Does a municipality incur any liability by adopting the LFCSGO?

**No.** The Town is immune from liability under the Maine Tort Claims Act. The Maine Municipal Association provided this response to the town of Solon in 2016:

"[...We] do not see any direct liability for the Town if the Town chose to adopt the ordinance. [...] In the event someone was injured or made a tort claim against the Town because they bought unlicensed food from a producer, the adoption of the ordinance would be a 'legislative act' for which the Maine Tort Claims Act provides immunity for the Town. 14MRSA §8104-B."

### Q4. Are there any costs incurred by a town with an ordinance?

**No.** There is no requirement for licensure, inspection, or enforcement of non-compliance, as there are no requirements for facilities or inspections. The ordinance covers only direct producer-to-consumer transactions where the consumer is an informed individual and community social events where people gather 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. The LFCSGO further recognizes a local 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. The LFCSGO allows and governs, but doesn't restrict so there are no costs incurred and there is no need for local enforcement.

**Q5. What are the concerns about food safety?**

**Food Sovereignty is the gold standard for food safety.** Food safety is a high priority of local food producers and processors. Producing local food under the ordinance does not relieve anyone of personal responsibility or protect a producer from liability. Those selling food have a high incentive to ensure safety and quality.

**Trust-Risk Evaluation.** In towns that have enacted a LFCSGO, town residents articulate that they place trust and accept risk in their local food system, independent from the regulatory system designed for industrial-scale food production.

**Short Distribution Chain.** The distribution chain in a direct producer-to-consumer transaction that has only two links. Traceability of any problem is clear and accountability is direct. Most food-borne illness outbreaks occur in long-chain distribution channels as food must go through many hands and travel long distances. This makes both traceability and accountability difficult to pinpoint.

**Q6. Where can food be sold?**

The Maine Food Sovereignty Act defines a **direct producer-to-consumer transaction** as *"an exchange of food or food products directly between a food producer and a consumer by barter, trade or purchase on the property or premises owned, leased or rented by the food producer; at roadside stands, fundraisers, farmers' markets and community social events; or through buying clubs, deliveries or community-supported agriculture programs, herd-share agreements and other private arrangements."*

This definition is up to each municipality to customize to meet its own food needs. To advance food sovereignty, the principles of food sovereignty and the policy of the State, and to protect the right to food as declared in the Constitution of Maine, the MFSA may not be construed to require a specific form or framework for any ordinance regarding traditional foodways or direct producer-to-consumer transactions. In accordance with home rule statute, Title 30-A, section 3001, subsections 1 and 3, any ordinance regarding traditional foodways or direct producer-to-consumer transactions must be liberally construed to effectuate the purpose of that ordinance.

**Q7. What foods are covered by a LFCSGO?**

The LFCSGO includes the following definition of **Local Food**: *"Any food or food product that is grown, produced, processed, or prepared by individuals who exchange that food directly with patrons."*

With the exception of meat and poultry (see below), the MFSA includes the following list of permitted foods in its definition of "Food or food products". "Food or food products" means food or food products that are grown, produced, processed or prepared for human consumption, including, but not limited to, vegetables, fruit, milk or milk products, meat or meat products, poultry or poultry products, fish or fish products, seafood or seafood products, cider or juice, acidified foods or canned fruits or vegetables.

**Q8. What about meat and poultry?**

The USDA threatened to take over Maine's meat inspection program in 2017 if Maine recognized local control regarding direct producer-to-consumer transactions that included meat and poultry. The food sovereignty law was then amended to recognize state authority to license and inspect meat production. The LFCSGO does not apply to any meat or poultry products that are required to be produced or processed in compliance with the Maine Meat and Poultry Inspection Program. The LFCSGO does apply to shared animal ownership agreements such as herdshare agreements, buying clubs, or other private contractual agreements.

**Q9. Isn't there a 1000 bird exemption for poultry?**

**Yes.** In 2013, in response to food sovereignty advocates, Maine revised the 1,000 Bird Exemption. There is not currently a facilities requirement to operate under the exemption, but processors must register with the State and there are requirements for processing and labeling included in the law. The statute can be found at:

<http://legislature.maine.gov/statutes/22/title22sec2517-C.html>

More information on the requirements of the exemption can be found in this three-page document:

[https://www.maine.gov/dacf/qar/inspection\\_programs/documents/mmpi/Fewer%20than%201000%20Bird%20Exemption.pdf](https://www.maine.gov/dacf/qar/inspection_programs/documents/mmpi/Fewer%20than%201000%20Bird%20Exemption.pdf)