

DRAFT -- NOT FOR DISTRIBUTION

An Ordinance to Protect the Health, Safety, and Welfare of Residents of the Town of _____ by Establishing a Local Food Bill of Rights; by Prohibiting Practices that Would Violate Those Rights; by Enforcing Penalties for Violations; and by Removing Legal Powers from Corporations Engaged in Prohibited Practices

Section 1 – Name

This ordinance shall be known and may be cited as “ _____ ’s Food Bill of Rights and Local Self-Government Ordinance.”

Section 2 – Authority

This Ordinance is enacted pursuant to the inherent right of the residents of the Town of _____ to govern their own community, as recognized by authorities including, without limitation, the Declaration of Independence’s declaration that governments are instituted to secure the rights of people; the Maine Constitution’s recognition that “all power is inherent in the people”; Section 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 _____; and §211 of Title 7 of the Maine Revised Statutes which states that “it is the policy of the State to encourage food self-sufficiency.”

Section 3 – Finding and Purpose

Whereas, the people of the Town of _____ find that unsustainable farming practices pose significant threats to the health, safety, and welfare of residents and the environment within the Town; and that those practices violate the right of the people of the Town to a sustainable food system; and

Whereas, the people of the Town of _____ find that the state and federal government’s current policy of encouraging unsustainable farming practices is detrimental to the health and well-being of this community; and

Whereas, the people of the Town of _____ understand that meaningful lawmaking which curtails the authority of agribusiness corporations to engage in unsustainable farming practices may run afoul of claimed corporate rights and powers; and that the claimed authority of those corporations has resulted in a system in which the rights of corporate minorities have routinely been used to nullify the rights of community majorities; and

Whereas, the people believe that local legislation that embodies the interests of the community is mandated by the doctrine of the consent of the governed, and the right to local, community self-government;

Therefore, the Town of _____ hereby adopts this ordinance, which establishes a local Bill of Rights within the community, prohibits unsustainable farming practices which violate those rights, imposes penalties for persons and corporations engaged in unsustainable farming practices, and removes certain claimed legal rights and powers from corporations engaged in unsustainable farming practices within the municipality.

Section 4 – Definitions

- (a) “Corporation” shall refer to any corporation, limited partnership, limited liability partnership, business trust, or limited liability company organized under the laws of any state of the United States or under the laws of any country, and any other business entity that possesses State-conferred limited liability attributes for its owners, directors, officers and/or managers.
- (b) “Damage natural communities and ecosystems.” This term and equivalent terms shall include but not be limited to alteration, removal, destruction, eradication, or other actions inflicted upon natural communities and ecosystems, in whole or in part, that bring about the cessation of the ability of natural communities and ecosystems to exist and flourish independent of human intervention.
- (c) “End consumer” means a person who is the last person to purchase any product, who does not resell the product, and who consumes the product within a private home.
- (d) “Family farm corporation” shall mean a corporation engaged in farming in which seventy-five percent (75%) of the ownership interests are held by members of a family and at least one member of that family resides within the Town and actually works the farm. “Family”, as used within this definition, shall mean natural persons related to one another within the fourth degree of kinship according to civil law, or their spouses.
- (e) “Formula restaurant” and “Formula food retail store” shall refer to any food selling institution which is substantially identical to more than eleven (11) other restaurants or food retailing establishments regardless of ownership or location.
- (f) “Genetically Engineered Life Forms or Genetically Modified Organisms”(GMO) and equivalent terms, shall refer to organisms and their genetic makeup in which genetic material or inherited genetic material has been directly altered through recombinant DNA technology, genetic modification, genetic manipulation, (GM) or gene splicing. The term shall not refer to traditional breeding where the organism's genes are manipulated indirectly. The term “organisms” shall include seeds.
- (g) “Humane treatment” means care which provides for the health and well-being of an animal held for commercial and/or agricultural use which is appropriate to the animal's age and species. This includes access to the outdoors, shade, shelter, exercise areas, fresh air, and direct sunlight suitable to the species, its stage of production, the climate, and the environment; access to pasture, for ruminants; appropriate, clean, dry bedding; and shelter designed to allow for natural maintenance, comfort behaviors and exercise, and temperature level and ventilation suitable to the species.
- (h) “Livestock” means all domesticated animals that may be kept in pens, barns, fences, pastures or on farmland as part of an agricultural farming operation that can or may be used in the preparation of animal products, including but not limited to horses, bovine, donkeys, mules, sheep, swine, ostrich, emu and rheas. Poultry, geese, and other fowl are included within the category of ‘livestock’ for the purpose of this ordinance.
- (i) ”Sustainable farming practices” are those farming practices that do not violate the rights of natural communities and ecosystems as recognized by this ordinance; that provide a viable income for farming and harvesting families; that meet all applicable state and federal pollution control requirements for farming practices; that grow, produce, or

process foodstuffs within five hundred miles of the Town of _____; that maintain plants, soil, air, water and animals free from genetic modifications or infestation by genetically modified organisms; that do not engage in unsustainable water use; that do not use sewage sludge or urban and industrial waste; and that provide for the humane treatment of livestock.

- (j) “Sustainable food systems” are systems that provide the community with food produced by sustainable farming practices, that promote biodiversity and productivity, and that provide for the social, economic and cultural enhancement of the quality of life within the community.
- (k) “Unsustainable farming practices” are farming practices that do not satisfy the definition of “sustainable farming practices” under this ordinance. Unsustainable farming practices shall include the use of non-family farm corporations to engage in farming within the municipality. “Engage in farming”, as used in this definition, shall include day-to-day operation of the farm, ownership of livestock, control of agricultural processes, or contractual agreements under which substantial control over the farm operation is transferred to the corporation.
- (l) “Unsustainable water use” means access, use, consumption or disposal of water from natural water sources or from facilities for the treatment of water, that interferes with natural water cycles, lessens the quality of water accessed in the Town or discharged within the Town to any degree, depletes the recharge of natural water systems, or violates the rights of human and natural communities or ecosystems as recognized by this Ordinance.

Section 5---Statements of Law – Bill of Rights for _____ Residents and the Natural Environment

- (a) *Right to Water*. All residents, natural communities and ecosystems in the Town of _____ possess a fundamental and inalienable right to the sustainable access, use, consumption, and preservation of water drawn from natural water cycles that provide water necessary to sustain life within the Town.
- (b) *Rights of Natural Communities*. Natural communities and ecosystems, including terrestrial as well as aquatic systems such as wetlands, streams, rivers, and aquifers, and the systems of life that inhabit them, possess inalienable and fundamental rights to exist, persist, maintain themselves, and regenerate their own vital cycles, structures, functions, and evolutionary processes within the Town of _____. Natural communities and ecosystems have an inalienable right to be free from the introduction of genetically modified organisms, and to be free from the patenting or ownership of their genetic essence.
- (c) *Right of Access to Sustainably Produced Food*. All residents of the Town of _____ possess a fundamental and inalienable right to access, use, consume, produce and distribute foods generated from sustainable farming practices.
- (d) *Right to a Sustainable Food System*. All residents of the Town of _____ possess a right to a sustainable food system.
- (e) *Right to Seed Heritage*. All residents, and each natural community within the Town of _____, possess the right to be free from infection, infestation or drift by any means,

from genetically engineered life forms or genetically modified organisms.

- (f) *Right to Self-Government.* All residents of _____ possess the fundamental and inalienable right to a form of governance where they live which recognizes that all power is inherent in the people, that all free governments are founded on the people's authority and consent, and that corporate entities and their directors and managers shall not enjoy special privileges or powers under the law which make community majorities subordinate to them.
- (g) *People as Sovereign.* The Town of _____ shall be the governing authority responsible to, and governed by, the residents of the Town. Use of the "Town of _____" municipal corporation by the sovereign people of the Town to make law shall not be construed to limit or surrender the sovereign authority or immunities of the people to a municipal corporation that is subordinate to them in all respects at all times. The people at all times enjoy and retain an inalienable and indefeasible right to self-governance in the community where they reside.

Section 6---Statements of Law – Protection of the Food Bill of Rights

- (a) It shall be unlawful for any person or corporation to engage in unsustainable farming practices within the Town of _____.
- (b) It shall be unlawful for any person or corporation engaged in farming outside of the municipality to cause genetically engineered life forms or organisms to infect crops grown within the municipality. No resident of the Town of _____ shall be held liable to any corporation claiming loss of income or commercial infringement resulting from the inadvertent infection of crops by genetically engineered life forms or genetically modified organisms used, produced, distributed, or sold by a corporation.
- (c) Each formula restaurant or formula food retail store situated within the Town of _____ shall maintain at least 25% of its total food inventory with food produced by sustainable food systems.
- (d) It shall be lawful for those producing food under the provisions of this ordinance to enter into agreements with End Consumers which waive any liability for the consumption of that food. Those producing food under the provisions of this ordinance shall be exempt from state and federal licensure and permitting requirements for that food as long as it is sold where such agreements are in effect.
- (e) Corporations in violation of the prohibitions established by this Ordinance, and corporations seeking to violate the prohibitions established by this Ordinance, shall not have the rights of "persons" nor access to legal protections afforded to persons by the United States and Maine Constitutions, nor shall those corporations be afforded rights under the 1st or 5th amendments to the United States Constitution or corresponding sections of the Maine Constitution, nor shall those corporations be afforded the protections of the Commerce or Contracts clauses within the United States Constitution or corresponding sections of the Maine Constitution.
- (f) Corporations engaged in activities prohibited by this Ordinance, and corporations seeking to engage in activities prohibited by this Ordinance, shall not possess the authority or power to enforce State or federal preemptive law against the people of the Town of _____, or to challenge or overturn municipal ordinances adopted by the Town of _____, when

that enforcement or challenge interferes with the rights asserted by this ordinance, or interferes with the authority of the municipality to protect the health, safety, and welfare of its residents.

(g) No permit, license, privilege or charter issued by any State or federal agency, Commission or Board to any person or any corporation operating under a State charter, or any director, officer, owner, or manager of a corporation operating under a State charter, which would violate the prohibitions of this Ordinance or deprive any Town resident(s), natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the Maine Constitution, the United States Constitution, or other laws, shall be deemed valid within the Town of _____.

Section 7—Enforcement

(a) The Town of _____ may enforce this Ordinance through an action brought in a court of competent jurisdiction. In such an action, the Town of _____ shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney’s fees.

(b) Any Town resident shall have the authority to enforce this Ordinance through an action brought in a court of competent jurisdiction. In such an action, the resident shall be entitled to recover damages and all costs of litigation, including, without limitation, expert and attorney’s fees.

(c) Any Town resident, an association of Town residents, and the Town of _____ shall have standing to enforce the rights of natural communities and ecosystems as provided in this ordinance, and any damages recovered by those actions shall be paid to the Town of _____ for restoration of the damaged natural community or ecosystem.

Section 8—Effective Date

This Ordinance shall be effective five (5) days after the date of its enactment.

Section 9—People’s Right to Self-Government

The foundation for the 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 pursuit of happiness. Any attempts 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 residents to protect their fundamental and inalienable right to self-government. Such consideration may include actions to separate the municipality from the other levels of government used to preempt, amend, alter, or overturn the provisions of this Ordinance or other levels of government used to intimidate the people of the Town of _____ or their elected officials.

Section 10—Severability

The provisions of this Ordinance are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part, or provision of this Ordinance is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the Ordinance. The Town of _____ hereby declares that in the event of such a decision, and the determination that the court’s ruling

is legitimate, it would have enacted this Ordinance even without the section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional.

Section 11—Repealer

All inconsistent provisions of prior Ordinances adopted by the Town of _____ are hereby repealed, but only to the extent necessary to remedy the inconsistency.

ENACTED AND ORDAINED this ____ day of _____, 2011, by the Town of _____.

By: _____