

AN ORDINANCE TO PROTECT THE HEALTH AND INTEGRITY OF THE LOCAL FOOD SYSTEM IN THE COUNTY OF EL DORADO, CALIFORNIA

Section 1. Name. This Ordinance shall be known and may be cited as the “Local Food and Community Self-Governance Ordinance #_____, 2012.”

Section 2, Preamble and Purpose. We the People of the County of El Dorado, California, 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. The transparent and close relationship between patrons and their producers/processors naturally initiates a self-regulating system. 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 County of El Dorado.

We recognize our individual rights and individual responsibilities. 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 California to protect and promote unimpeded access to local foods.

The purpose of the Local Food and Community Self-Governing Ordinance is to:

1. Provide citizens with unimpeded access to local food.
2. Enhance the local economy by promoting the production and purchase of local agricultural products.
3. Protect access to farm based sales and direct producer to patron sales.

4. Support the economic viability of local food producers and processors.
5. Preserve local knowledge and traditional food ways.

Section 3. Authority. This Ordinance is adopted and enacted pursuant to the inherent, inalienable and fundamental right of the citizens of the County to self government, and under the authority recognized as belonging to the people of El Dorado County 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 United States of America, Amendment IV

The right of the people to be secure in their persons, houses, papers and effects, against seizures, shall not be violated and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

The California Constitution, which recognizes that **“all political power is inherent in the people”**. (California Constitution Article II, Section 1) and that **grants counties and cities all powers necessary to protect the public health, safety, and welfare** (California Constitution, Article XI, Section 7) and Article 1 Section 9 which states in the Declaration of Rights: A bill of attainder, ex post facto law, or **law impairing the obligation of contracts** may not be passed.

Section 2. Definitions.

As used in this ordinance:

- (a) “Patron” means an individual who is the 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 or personally by a patron.
- (c) “Local Foods” means any food or food product that is grown, produced, or processed by individuals within El Dorado County, who sell directly to their patrons through farm-based sales, private agreement, or private food buying clubs.
- (d) “Processor” means an individual residing in El Dorado County, who processes or prepares products of the soil or animals, for food or drink, for sale only to patrons for home consumption.
- (e) “Producer” means any farmer or gardener, in El Dorado County, who grows any plant or animal for food or drink.
- (f) "Private Food Buying Club" means an association of patrons who organize to purchase products directly from producers/processors.

Section 5. Statements of Law.

Section 5.1. Right to Access and Produce Food. El Dorado County citizens possess the right to produce, process, sell, purchase and consume local foods of their choosing.

Section 5.1a Right to Ownership: El Dorado County citizens have the right to own livestock animals, in whole or in part, and keep them in accordance with Title 17 of the El Dorado County Code, zoning.

Section 5.1b. Right to Contract for Care and Production: El Dorado County residents have the right to contract with any person to provide housing and care for animals that they own, in whole or in part, in accordance with Title 17 of the EDCC, zoning, including activities such as milking or shearing, to provide products from such animals.

Section 5.1c. Right to the Products: All El Dorado County residents have the right to contract with any person to package and deliver the products, including dairy products, derived from animals that such residents

own, in whole or in part, for the owner's personal consumption or other personal use.

Section 5.1d. Right to contract for specialty food items. El Dorado County citizens have the right to contract with local producers and processors for food items such as baked goods, jams and other specialty food items for their own consumption or personal use.

Section 5.1e. Right to Participate in Private Food Clubs. El Dorado County citizens have the right to form associations to contract with local producers and processors of food items.

Section 5.2. Licensure/inspection Exemption. Producers or processors of local foods in the County of El Dorado 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 through farm-based sales directly to a patron; or delivers his or her products directly to patrons.

Section 5.3. Right to Self-Governance. All citizens of El Dorado County 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. El Dorado County citizens possess the right to adopt measures which prevent the violation of the rights enumerated in this Ordinance. The Sheriff, being the supreme law enforcement official in the county, is obligated to protect the rights of the citizens recognized in this Ordinance against any outside agency or corporation.

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.

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 and waive any liability for the consumption of that food. These same patrons waive any liability against the County of El Dorado for these granted exemptions.

Section 7. Civil Enforcement. The County of El Dorado may enforce the provisions of this Ordinance through seeking equitable relief from a court of competent jurisdiction. Any individual citizen of the County of El Dorado 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. County Action against Preemption. 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 County 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 County 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 Ordinance adopted by the County of El Dorado are hereby repealed, but only to the extent necessary to remedy the inconsistency.