



**City Council - Worksession**  
**Monday, July 25, 2016 - 5:00 p.m.**  
**Council Worksession Room**

*(meeting will not be cablecast)*

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **COUNCIL BUSINESS and/or DISCUSSION ITEMS**
  - 3.1 Discussion; Food/Beverage Contract at Green Haven Golf Course & Event Center.
  - 3.2 Discussion: Proposed changes to City Code related to Signs.
  - 3.3 Discussion; Cottage Food Law.
  - 3.4 Discussion; Unmanned Aerial Device Ordinance.
  - 3.5 Discussion; Downtown Activity.
4. **ADJOURNMENT**

# COUNCIL WORKSESSION MEMO

3.1

Meeting Date	Monday July 25, 2016
Agenda Section	Discussion
Item Description	3.1 Food/Beverage Contract at Green Haven Golf Course & Event Center
Submitted By	Larry Norland

## **BACKGROUND INFORMATION**

The City of Anoka and Lancer Catering entered into a contract that had a 3 year term with two 2 year renewable terms and the end of that contract is March 31, 2017. City staff has come up with some changes in the language of the contract going forward and we would like to have a discussion to see if council has any specific direction or changes that should be included in any new contract.

## **FINANCIAL IMPACT**

Unknown

## **COUNCIL DIRECTION REQUESTED**

Discussion to direct city staff in renewing F&B Contract at Green Haven Golf Course & Event Center.

## LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made this 19<sup>th</sup> day of March, 2010, by and between the City of Anoka, a Minnesota municipal corporation, located at 2015 First Avenue North, Anoka, Minnesota 55303 ("Landlord"), and Blue Bell Enterprises, Inc. a Minnesota corporation doing business as Lancer Hospitality, located at 1255 Trapp Road, Eagan, Minnesota 55121 ("Tenant").

### Section 1. Grant of Lease.

1.1. Landlord hereby demises and leases the Premises to Tenant, and Tenant hereby leases and accepts the Premises from Landlord, to have and to hold during the Term, subject to the terms and conditions of this Lease.

1.2. Landlord shall warrant and defend Tenant in the quiet enjoyment and possession of the Premises during the Term, subject to the terms and conditions of this Lease.

1.3. Landlord covenants to observe and perform all of the terms and conditions to be observed and performed by Landlord under this Lease. Tenant covenants to pay the rent when due under this Lease and to observe and perform all of the terms and conditions to be observed and performed by Tenant under this Lease.

1.4. "Premises" means the spaces identified on Exhibit A attached to this Lease. The Building containing the Premises shall be located at 2800 Greenhaven Road, Anoka, Minnesota on real property described on Exhibit B attached to this Lease. In addition to the Premises, Landlord shall provide a paved parking area adjacent to the building containing not less than 240 parking spaces for the non-exclusive use of Tenant.

1.5. Tenant shall have the right to use, for the purpose of access to the Premises, and in connection with the operation of Tenant's business on the Premises, all corridors, stairways, vestibules and the elevator in the Building. Occupants and business invitees in the Building shall have the right to use, as required for the purpose of access to parts of the Building not within the Premises, all corridors, stairways, foyers, lobbies, entries, vestibules and other reasonable passageway areas in the Premises.

### Section 2. Term and Possession.

2.1. Term. The term of this Lease shall be three (3) years, beginning on April 2, 2010 and ending on March 31, 2013 (the "Initial Term"), unless otherwise terminated as provided herein. Tenant shall have the right to extend the Initial Term for successive two (2) year periods ("Renewal Terms") on the same terms and conditions as set forth herein. This Agreement shall automatically be extended for each successive Renewal Term unless either party notifies the other, in writing, of its intention not to renew at least one hundred and eighty (180) days prior to commencement of the succeeding Renewal Term.

2.2. Termination for Convenience. After the Initial Term and during any Renewal Term, either Landlord or Tenant may terminate this Lease by giving one hundred and eighty (180) days prior written notice of its intent to terminate the Lease.

Section 3. Personal Property. Landlord is the owner of kitchen fixtures and equipment, tables, chairs, and other personal property and fixtures, all as listed on Exhibit C (the "Landlord Property"). As of the date of this Lease, all of the Landlord Property will be in good repair and in good working order. All of the Landlord Property shall remain at the Premises for Tenant's use and is leased to Tenant during the term of this Lease without any requirement to pay additional rent. The Landlord Property shall be maintained in good condition by Tenant, and repaired by Tenant as is reasonably necessary to maintain the original inventory; provided that if the repair costs of any item exceed thirty five percent (35%) of the replacement value of such item, Landlord must, at its sole option, either repair or replace said item of Landlord Property with a suitable replacement. All other maintenance and repair costs shall be paid by Tenant. Tenant shall, at its own expense, provide all other personal property required to operate a public bar, grill, snack bar, restaurant, banquet facility, catering business, and support of a golf course beverage service (collectively the "Services"). All personal property provided by Tenant shall be and remain Tenant's property during and after the Term. All Landlord Property shall be and remain Landlord's property during and after the Term.

Section 4. Use of Premises.

4.1. Use. The Premises shall be used and occupied only to provide the Services or for such other purpose as Landlord may specifically authorize. The bar, grill and banquet rooms shall be open at such times as determined by Tenant in its reasonable business judgment and shall be generally available to the public for banquets on terms and conditions determined by Tenant. Tenant shall maintain, at Tenant's expense, an on-sale liquor license for the Premises. Tenant shall keep in stock on the Premises a full and ample supply of food, beverages, restaurant equipment and supplies adequate for conducting its business as allowed herein. Furthermore, Tenant shall maintain an adequate and properly trained service and management staff to properly serve all customers and operate Tenant's business in an efficient and business like manner. Failure by Tenant to operate its business in such a manner shall be a basis for termination of this lease by Landlord as provided for in Section 15.4 herein. Tenant agrees that it will not permit alcohol use by any of its employees on the Premises while they are working on the Premises.

4.2. Hours of Operation; Seasonal Operations. Notwithstanding anything to the contrary in this Lease, (i) Tenant shall determine the hours of operation of any of the Services in its sole discretion, and (ii) Tenant may suspend the Services or any part of them for such periods as Tenant may determine in its sole discretion.

4.3. Compliance with Laws. The Premises shall be used and occupied in a safe, careful, and proper manner so as not to contravene any present or future governmental and quasi-governmental laws, regulations or orders, or the requirements of Landlord's insurance carriers.

4.4. Abandonment. Except as provided in Section 4.1, Tenant shall not vacate or abandon the Premises or cease to provide the Services at any time during the Term without Landlord's written consent.

4.5. Nuisance. Tenant shall not cause or maintain any nuisance in or about the Premises, and shall keep the Premises free of debris, rodents, vermin, insects, and anything of a dangerous, noxious, or offensive nature or which could create a fire hazard (through undue load on electrical circuits or otherwise) or undue vibration, heat, or noise.

Section 5. Rent.

5.1. Rent. During the Lease, Tenant shall pay as rent ("Rent") 5% of Tenant's Net Sales at the Premises.

5.2. Definition of "Net Sales". For purposes of this Lease, "Net Sales" means retail sales less

- 5.2.1. taxes and other direct taxes imposed upon the receipts that are payable by Tenant;
- 5.2.2. billed service charges;
- 5.2.3. gratuities, if any, voluntarily remitted from time to time in conjunction with Tenant's provision of products or services;
- 5.2.4. refunds or discounts to customers;
- 5.2.5. fees paid to credit card issuers, and
- 5.2.6. sales to employees of Landlord or Tenant that are made at a discounted rate.

5.3. Payment of Rent. On or before the twentieth day of each month during the Term, the Net Sales for the previous month shall be calculated by Tenant and the rent due shall be paid and Tenant shall certify in writing the amount of Net Sales during the previous month with such detail reasonably requested by Landlord.

5.4. Books and Records. Tenant shall maintain with respect to the business transacted in or from the Premises books and records in accordance with Tenant's general business practices and as generally kept with respect to restaurant businesses. Such books and records shall be maintained at the Tenant's business offices and each year's books and records shall be preserved for at least three years. The books and records in any event shall be maintained according to generally accepted accounting principles and shall contain sufficient information to permit a calculation of Net Sales. Landlord shall have the right to examine during regular business hours, at Tenant's business offices, all books and records of Tenant in any way pertaining to business transacted in or from the Premises, upon request of Landlord. Landlord may also examine at the Premises such sales reports or other records as may be maintained by Tenant with respect to Net Sales.

5.5. Cash Register Records. The business operated by Tenant on the Premises shall employ cash registers or point-of-sale terminals commonly used in lieu thereof which permit Tenant to make a permanent record of each sale. Except for sales made by beverage carts on the golf course or other immaterial sales, no sale of any merchandise or service will be made by Tenant without recording the amount paid therefor. Landlord may upon request and without interrupting Tenant's business operations review sales reports and observe the operation of the recording of sales.

5.6. Tax Returns. Upon request by Landlord, Tenant shall provide a copy of its monthly Minnesota sales tax returns relative to sales made at the Premises together with evidence of payment of such sales taxes..

5.7. Landlord's Examination Costs. If upon any examination by Landlord of the books or records of Tenant an error shall be revealed in favor of Landlord which results in there being due to Landlord additional percentage rental in excess of 5% of the total amount previously paid during any calendar year, then the reasonable cost of such examination shall be paid by Tenant to Landlord.

5.8. Relationship of Parties. Nothing contained in this Lease shall be construed as creating a partnership or joint venture between Landlord and Tenant or between Landlord and any other party, or cause Landlord to be responsible in any way for the debts or obligations of Tenant or any other party.

5.9. Payment of Rent-General. All amounts payable by Tenant to Landlord under this Lease shall be deemed to be Rent and shall be payable and recoverable as Rent in the manner herein provided, and Landlord shall have all rights against Tenant for default in any such payment as in the case of arrears of rent. Rent shall be paid to Landlord at the address of Landlord as set forth in the beginning of this Lease, or to such other person or at such other address as Landlord may from time to time designate in writing. Tenant's obligation to pay Rent shall survive the expiration or earlier termination of the Lease.

5.10 Real Estate Taxes. Tenant will not be obligated to pay any real estate taxes on the Premises during the first year of the Initial Term. After the first year of the Initial Term, Tenant shall be obligated to pay monthly, in addition to Rent payable under Section 5.1, \$675 per month of the personal and/or real estate taxes on the Premises where tax is imposed on the Premises by Minnesota Statutes 272.01, Subd. 2. Said monthly payments shall be made at the same time that rent is due under Section 5.3. At time of contract renewal, taxes will be limited to a 20% increase over the current amount.

#### Section 6. Services, Maintenance, Repair, and Alterations By Landlord.

6.1. Operation of Building. During the Term, Landlord shall operate and maintain the Building in accordance with all applicable laws and regulations, and the requirements of Landlord's insurance carriers.

6.2. Services to Premises. Landlord shall provide (and Tenant shall contribute to the payment of expenses as provided in Section 6.5) in the Premises:

6.2.1. Heat, ventilation, and cooling as required for the comfortable use and occupancy of the Premises during normal business hours.

6.2.2. Electric power.

6.2.3. Domestic running water.

6.2.4. Maintenance, repair, and replacement as set out in Section 6.4.

6.3. Building Services. Landlord shall provide in and around the Building:

6.3.1. Access to and egress from the Premises, including elevator service.

6.3.2. Heat, ventilation, cooling, lighting, electric power, domestic running water, and janitor service in those areas of the Building required by Tenant for access to the Premises during normal business hours of Tenant, but under the exclusive control of Landlord.

6.3.3. Sidewalk and parking lot maintenance, snow removal, and maintenance of the exterior of the Building.

6.3.4. Maintenance, repair, and replacement as set out in Section 6.4.

6.4. Maintenance, Repair, and Replacement by Landlord. Except as provided in Section 6.5, Landlord shall operate, maintain, repair, and replace the systems, facilities, and equipment necessary for the proper operation of the Building and for the provision of Landlord's services under Section 6.2 and 6.3 and shall be responsible for and shall expeditiously maintain and repair the foundations, structure, and roof of the Building, concealed plumbing, electrical, gas, and sewer lines, provided that Landlord shall have a reasonable time in which to complete the necessary repair or replacement, and that Landlord shall use reasonable diligence in carrying out its obligations but shall not be liable under any circumstances for any consequential damage to any person or property for any failure to do so. No interruption of such services under this Section 6.4 shall be construed as an eviction of Tenant except as otherwise specifically provided in this Lease, or release Tenant from any obligation of Tenant under this Lease. This Section is subject to the provisions of this Lease pertaining to damage by fire or other casualty. Landlord will replace lights in vaulted ceilings.

6.5. Maintenance and Repair of Furniture, Fixtures and Equipment by Tenant; Operating Expenses; Cleaning Services; Sidewalks. During the Term, Tenant shall:

6.5.1. Maintain and repair all equipment, furnishings and trade fixtures in the Premises owned by Landlord, including those items as described in Section 3.

6.5.2. Pay 60 % of all utility costs for the Building within 30 days after receipt of an invoice from the Landlord. If said invoice is not paid within said time, such amount shall incur late charges in the amount of two percent (2%) of

the then overdue amount, which shall be immediately due and payable. Failure to immediately pay said utility costs and late charges shall constitute a default under the terms and conditions of this Lease.

6.5.3. Provide janitor and cleaning services as reasonably required to keep the Building, including interior and exterior window surfaces, in a clean and wholesome condition, and in compliance with all applicable license requirements and regulations. Tenant shall be responsible for all costs of the janitor and cleaning services of the Premises.

6.6. Alterations by Landlord. Landlord may from time to time:

6.6.1. Make repairs, replacements, changes or additions to the structure, system and facilities in the Premises where necessary to serve the Premises or other parts of the Building.

6.6.2. Make changes in or additions to any part of the Building not included in the Premises.

Section 7. Maintenance, Repair and Alterations of Tenant; Improvements by Tenant.

7.1. Condition of Premises. Except to the extent that Landlord is specifically responsible therefor under this Lease, Tenant shall maintain the Premises and all improvements therein in good order and condition, including cleaning drapes and carpets at reasonable intervals as needed. If Tenant fails to perform these obligations, then on thirty (30) days' notice to Tenant, Landlord may enter the Premises and perform such obligation without liability to Tenant for any loss or damage to Tenant and Tenant shall pay Landlord for the cost thereof within ten (10) days of receipt of Landlord's invoice therefor.

7.2. Alterations by Tenant. Tenant may from time to time at its own expense make changes, additions and improvements in the Premises to better adapt the same to its business, provided that any such change, addition or improvement shall:

7.2.1. Comply with the requirements of any governmental authority and with the requirements of Landlord's insurance carriers.

7.2.2. Be made only with the prior written consent of Landlord when the anticipated changes, additions or improvements exceed the sum of Three Thousand and 00/100 Dollars (\$3,000.00).

7.2.3. Be carried out only by persons selected by Tenant and approved in writing by Landlord under terms and conditions reasonably required by Landlord.

7.3. Trade Fixtures and Personal Property. Tenant may install on the Premises its usual trade fixtures and personal property in a proper manner, providing that no such installation shall interfere with or damage the mechanical or electrical systems or the structure of the Building. Trade fixtures and personal property installed on the Premises

by Tenant may be removed from the Premises from time to time in the ordinary course of Tenant's business or alteration of the Premises by Tenant, and during a reasonable period prior to or after the termination of this Lease, provided that Tenant does not unreasonably interfere with Landlord's operations and promptly repairs at its own expense any damage to the Premises or Building resulting from such installation or removal.

7.4. Mechanic's Liens. Tenant shall pay before delinquency all costs for work done or caused to be done by Tenant in the Premises which could result in a lien or encumbrance on Landlord's interest in the Premises or the Building or any part thereof, and shall keep the title to the Premises or Building and every part thereof free and clear of any lien or encumbrance in respect of such work, and shall indemnify and hold harmless Landlord against any claim, loss, costs, demand in legal or other expense arising out of the supply of material, services or labor for such work.

7.5. Signs. Any signs, lettering, decal or design of Tenant which is visible from the exterior of the Premises shall be at Tenant's expense and subject to approval by Landlord.

#### Section 8. Insurance.

8.1. Landlord's Insurance. During the Term, Landlord shall maintain boiler and machinery insurance, comprehensive general liability, and fire insurance with extended coverage on the Building. Landlord shall also provide business personal property insurance for personal property at the Premises owned by Landlord. Policies for such insurance shall waive any right of subrogation against Tenant and all individuals and entities whom Tenant is responsible in law.

8.2. Tenant's Insurance. During the Term, Tenant shall maintain at its own expense, comprehensive general liability insurance for Tenant's business in an amount not less than \$1,000,000 combined single limit. Tenant shall also maintain workers' compensation insurance covering its employees, and business personal property insurance for personal property owned by Tenant. Tenant shall also maintain at its own expense liquor liability insurance in an amount not less than \$500,000 combined single limit. Tenant shall cause Landlord to be named as an additional insured on all policies.

Policies for such insurance shall be in a form and with an insurer reasonably acceptably to Landlord and shall require at least thirty (30) days' written notice to Landlord of termination or material alteration during the Term and shall waive any right of whom Landlord is responsible in law. Tenant shall deliver on the commencement of the Term and on each anniversary thereof to Landlord copies or other evidence of such policies.

Section 9. Assignment and Subletting. Tenant may not without the prior written consent of Landlord assign or sublet all or any part of the Premises. Any such assignment or subletting which is permitted by Landlord shall not release Tenant of its obligations under this Lease unless such release is specifically granted by Landlord to Tenant in writing.

Section 10. Surrender.

10.1. Surrender of Premises. Upon the expiration or termination of the Term of this Lease, Tenant shall immediately quit and surrender possession of the Premises and Landlord's Property to Landlord in as good order and condition as when Tenant took possession and is thereafter improved by Landlord and/or Tenant, reasonable wear and tear and repairs which are specifically made the responsibility of Landlord hereunder excepted, and shall thoroughly clean the walls and floors and shampoo the carpets. Upon such expiration or termination, Tenant shall, without expense to Landlord, remove or cause to be removed from the Premises all debris and rubbish, and such items of furniture, equipment, free-standing cabinet work, movable partitions and other articles of personal property owned by Tenant or installed or placed by Tenant at its expense in the Premises, and such similar articles of any other persons claiming under Tenant, as Landlord may, in its sole discretion, require to be removed, and Tenant shall repair at its own expense all damage to the Premises and Building resulting from such removal. Upon such surrender, all right, title and interest of the Tenant in and to the Premises and Landlord's Property shall cease.

10.2. Trade Fixtures, Personal Property and Improvements. Subject to Tenant's rights under Section 7.3 and the provisions of Section 15.5 in the event of Tenant's default, all of Tenant's trade fixtures, personal property and improvements remaining in the Premises more than sixty (60) days after the termination of this Lease may be deemed by Landlord to have been abandoned by Tenant and may be appropriated, sold, destroyed or otherwise disposed of by Landlord without notice or obligation to compensate Tenant or to account therefore, and Tenant shall pay to Landlord on written demand all costs incurred by Landlord in connection therewith.

Section 11. Holding Over.

11.1. Month to Month Tenancy. If with Landlord's written consent Tenant remains in possession of the Premises after the expiration or other termination of the Term, Tenant shall be deemed to be occupying the Premises on a month to month tenancy only, and shall pay rent equal to the Rent as determined in accordance with Section 5, or such other rent as is stated in such written consent. Such month to month tenancy may be terminated by Landlord or Tenant on the last day of any calendar month by delivery of at least thirty (30) days advance written notice of termination to the other.

11.2. Tenancy at Sufferance. If without Landlord's written consent Tenant remains in possession of the Premises after the expiration or other termination of Term, Tenant shall be deemed to be occupying the Premises upon a tenancy at sufferance only, at a monthly rent equal to 1.5 times the Rent determined in accordance with Section 5. Such tenancy at sufferance may be terminated by Landlord at any time by notice of

termination to Tenant and by Tenant on the last day of any calendar month by at least thirty (30) days advance written notice of termination to Landlord.

Section 12. Eminent Domain.

12.1. Taking of Premises. If during the Term all of the Premises are taken for any public or quasi-public use under any statute or by right of eminent domain, or purchase under threat of such taking, the base rent shall abate and be appropriated to the date of taking, and Tenant shall thereafter pay to Landlord or the condemning authority, as the case may be, the apportioned Rent and all other amounts under the Lease.

12.2. Partial Taking of Building. If during the Term only part of the Building is taken or purchased as set out in Section 12.1, then:

12.2.1. If in the reasonable opinion of Landlord substantial alteration or reconstruction of the Building is necessary or desirable as a result thereof, whether or not the Premises are or may be affected, Landlord shall have the right to terminate this Lease by giving the Tenant at least thirty (30) days written notice of such termination, and

12.2.2. If more than one-third of the number of square feet in the Premises is included in such taking or purchase, Landlord and Tenant shall each have the right to terminate this Lease by giving the other at least thirty (30) days written notice thereof.

If either party exercises its right of termination hereunder, this Lease shall terminate on the date stated in the notice, provided, however, that no termination pursuant to notice hereunder may occur later than sixty (60) days after the date of such taking.

12.3. Surrender. On any such date of termination under Section 12.2, Tenant shall immediately surrender to Landlord the Premises and all interests therein under this Lease. Landlord may re-enter and take possession of the Premises and remove Tenant therefrom, and the Rent shall no longer accrue from the date of termination, except that if the date of such taking differs from the date of termination, Rent shall no longer accrue from the former date in respect of the portion taken. After such termination, and on notice from Landlord stating the Rent then owing, Tenant shall forthwith pay Landlord such Rent.

12.4. Awards. Upon any such taking or purchase, and except as otherwise set forth herein, Landlord shall be entitled to receive and retain the entire award or consideration for the affected lands and improvements, and Tenant shall not have nor advance any claim against Landlord for the unexpired Term of the Lease. In the event that separate proceedings are initiated as to the individual interests of Landlord and Tenant, Tenant and Landlord shall each be entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to their respective interests in any condemnation proceedings provided that Tenant shall not seek payment in any other separate proceedings for the balance of the unexpired Lease Term and any options thereon.

Section 13. Damage by Fire or Other Casualty.

13.1. Limited Damage of Premises. If all or part of the Premises are rendered untenantable by damage from fire or other casualty which, in the reasonable opinion of an architect selected by Landlord and approved by Tenant, can be substantially repaired under applicable laws and governmental regulations within 120 days from the date of such casualty (employing normal construction methods without overtime or other premium), Landlord shall forthwith at its own expense repair such damage including damage to equipment, furniture, trade fixtures and other chattels owned by Landlord, but excluding damage to improvements, furniture, chattels or trade fixtures owned by Tenant, which shall be repaired forthwith by Tenant at its own expense.

13.2. Major Damage to Premises. If all or part of the Premises are rendered untenantable by damage from fire or other casualty which, in the reasonable opinion or an architect acceptable to the Landlord and Tenant, cannot be substantially repaired under applicable laws and governmental regulations within 120 days from the date of such casualty (employing normal construction methods without overtime or other premium), then either Landlord or Tenant may elect to terminate this Lease as of the date of such casualty by written notice delivered to the other not more than ten (10) days after receipt of such architect's opinion, failing which Landlord shall forthwith at its own expense repair such damage other than damage to improvements, furniture, chattels or trade fixtures, which shall be repaired forthwith by Tenant at its own expense.

13.3. Abatement. If Landlord is required to repair damage to all or part of the Premises under Section 13.1 or 13.2, the Rent payable by Tenant hereunder shall be proportionately reduced to the extent that the Premises are thereby rendered untenantable from the date of such casualty until five (5) days after completion by Landlord of the repairs to the Premises (or the part thereof rendered untenantable) or until Tenant again uses the Premises (or the part thereof rendered untenantable) in its business, whichever first occurs.

13.4. Major Damage to Building. If all or a substantial part (whether or not including the Premises) of the Building is rendered untenantable by damage from fire or other casualty to such a material extent that in the reasonable opinion of Landlord the Building must be totally or partially demolished, whether or not to be reconstructed in whole or in part, Landlord may elect to terminate this Lease as of the date of such casualty (or on the date of notice if the Premises are unaffected by such casualty) by written notice delivered to Tenant not more than sixty (60) days after the date of such casualty.

Section 14. Notices. Any notice from one party to the other hereunder shall be in writing and shall be deemed duly served if delivered personally to a responsible employee of the party being served, or if mailed by registered or certified mail addressed to Tenant at the Premises (whether or not Tenant has departed from, vacated or abandoned the same) or to Landlord at the place from time to time established for the payment of Rent. Any notice shall be deemed to have been given at the time of actual receipt or, if mailed, three (3) days after the date

of mailing thereof. Either party shall have the right to designate by notice, in the manner above set forth, a different address to which notices are to be mailed.

Section 15. Default.

15.1. Tenant's Indemnification. Tenant shall indemnify Landlord against all costs and charges (including legal fees) lawfully and reasonably incurred in enforcing payment thereof, and in obtaining possession of the Premises after default of Tenant or upon expiration or earlier termination of the Term of this Lease, or in enforcing any covenant, provision or agreements of Tenant herein contained.

15.2. Right of Landlord to Perform Covenants. All covenants and agreements to be performed by Tenant under any of the terms of this Lease shall be performed by Tenant, at Tenant's sole cost and expense, and without any abatement of Rent. If Tenant shall fail to perform any act on its part to be performed hereunder, and such failure shall continue for thirty (30) days after notice thereof from Landlord, Landlord may (but shall not be obligated so to do) perform such act without waiving or releasing Tenant from any of its obligations relative thereto. All sums paid or costs incurred by Landlord in so performing such acts under this Section 15.2 shall be payable by Tenant to Landlord on demand.

15.3. Events of Default. The following events shall be deemed events of default by Tenant under this Lease:

15.3.1. Part or all of the Rent or other charges hereby required is not paid within ten (10) days of receipt by Tenant of notice of non-payment from Landlord, or

15.3.2. Tenant becomes insolvent or commits an act of bankruptcy or becomes bankrupt or takes the benefit of any statute that may be in force for bankrupt or insolvent debtors or becomes involved in voluntary or involuntary winding up proceedings or if a receiver shall be appointed for the business, property, affairs or revenues of Tenant, or

15.3.3. Tenant moves its goods, chattels and equipment out of the Premises (other than in the normal course of its business) or ceases to conduct business from the Premises, or

15.3.4. Tenant fails to materially observe, perform and keep each and every of the covenants, agreements, provisions, stipulations and conditions herein contained to be observed, performed and kept by Tenant (other than payment of Rent).

Any shorter period for cure provided by law notwithstanding, and in lieu thereof, Tenant may cure any default under Section 15.3.2, 15.3.3, or 15.3.4 within thirty (30) days after written notice of default is received by Tenant from Landlord, provided that if such non-monetary default is curable but is of such a nature that the cure cannot be completed within thirty (30) days, Tenant shall be allowed to

cure the default if Tenant promptly commences the cure upon receipt of the notice and diligently prosecutes the same to completion as promptly as reasonably possible thereafter.

Landlord's notice of default may be accomplished by, and shall not be in addition to, any notice required by law.

15.4. Remedies Upon Default. Upon the occurrence of any event of default by Tenant, Landlord shall have, in addition to any other remedies available to Landlord under this Lease or at law or in equity, the option to pursue any one or more of the following remedies (each and all of which shall be cumulative and non-exclusive) without any notice or demand whatsoever:

15.4.1. If the event of default is Tenant's failure to pay part or all of the Rent or other charges as required under Section 15.3.1, Landlord may, in addition to any and all other rights it may have, impose late charges in the amount of two percent (2 %), which, together with the past due charges, shall be due and payable within thirty (30) days of notice from Landlord.

15.4.2. Terminate this Lease, in which event Tenant shall immediately surrender the Premises and Landlord Property to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in Rent, and as allowable by law enter upon and take possession of the Premises and Landlord Property and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof. Tenant hereby waives any rights it may have to make any claim or assess any damages against Landlord for such entry and/or expulsion and Landlord may recover from Tenant the following:

- a. Any unpaid Rent which has been earned at the time of such termination; plus
- b. The amount of any unpaid Rent which would have been earned after termination until the time of award; plus
- c. The amount of any unpaid Rent for the balance of the Term after the time of award; plus
- d. All deposits received by Tenant for upcoming events at the Premises; plus
- e. Any other amount necessary to compensate Landlord for all the detriment approximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, specifically including but not limited to brokerage commissions, advertising expenses and legal fees incurred, expenses of remodeling Premises or any

portion thereof for a new tenant, whether for the same or a different use, and any special concessions made to obtain a new tenant; and

- f. At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

The term "Rent" as used in this Section 15.4 shall be deemed to be and to mean all sums of every nature required to be paid by Tenant pursuant to the terms of this Lease, whether to Landlord or to others.

- 15.4.3. If Landlord does not elect to terminate this Lease on account of any default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all its rights and remedies under this Lease, including the right to recover all Rent as it becomes due.

15.5. Disposition of Personal Property. Whenever Landlord shall re-enter the Premises as provided in this Lease, any personal property of Tenant not removed by Tenant upon the expiration of the Term of this Lease, or within 48 hours after a termination by reason of Tenant's default as provided in this Lease, shall be deemed abandoned by Tenant and may be appropriated, sold, destroyed or otherwise disposed of by Landlord without notice or obligation to compensate Tenant or to account therefore, and Tenant shall pay to Landlord on written demand all reasonable costs incurred by Landlord in connection therewith.

15.6. Remedies Cumulative. No reference to nor exercise or any specific right or remedy by Landlord shall prejudice or preclude Landlord from exercising or invoking any other remedy in respect thereof, whether allowed at law or in equity or expressly provided for herein. No such remedy shall be exclusive or dependent upon any other such remedy, but Landlord may from time to time exercise any one or more of such remedies independently or in combination. A default under this Lease shall be deemed to be a default under any other agreement between Tenant (or its affiliates) and Landlord (or its affiliates) and a default under any other agreement between Tenant (or its affiliates) and Landlord (or its affiliates) shall be deemed to be a default under this Lease.

15.7. Mitigation of Damages. Landlord and Tenant have a duty to mitigate any damages either of them may reasonably incur upon a default by the other, including Landlord's obligation to re-lease the Premises.

## Section 16. Miscellaneous.

16.1. Relationship of Parties. Nothing contained in this Lease shall create any relationship between the parties hereto other than that of landlord and tenant, and it is acknowledged and agreed that Landlord does not in any way or for any purpose become a partner of Tenant in the conduct of its business, or a joint venturer or a member of a joint or common enterprise with Tenant.

16.2. Consent Not Unreasonably Withheld. Except as otherwise specifically provided, whenever consent or approval of Landlord or Tenant is required under the terms of this Lease, such consent or approval shall not be unreasonably withheld or delayed. Tenant's sole remedy if Landlord unreasonably withholds or delays consent or approval shall be an action for specific performance, and Landlord shall not be liable for damages. If either party withholds any consent or approval, such party shall on written request deliver to the other party a written statement giving the reasons therefore.

16.3. Applicable Law and Construction. This Lease shall be governed by and construed under the laws of the State of Minnesota, and its provisions shall be construed as a whole according to their common meaning and not strictly for or against Landlord or Tenant. The words Landlord and Tenant shall include the plural as well as the singular. If this Lease is executed by more than one tenant, Tenant's obligations hereunder shall be joint and several obligations of such tenants. Time is of the essence of this Lease and each of its provisions. The captions of the Articles are included for convenience only, and shall have no effect upon the construction or interpretation of this Lease.

16.4. Entire Agreement. "Lease" means this Lease, Exhibit A to this Lease, every properly executed instrument which by its terms amends, modifies or supplements this Lease. This Lease contains the entire agreement between the parties hereto with respect to the subject matter of this Lease. Tenant acknowledges and agrees that it has not relied upon any statement, representation, agreement or warranty except such as are set out in this Lease.

16.5. Amendment or Modification. Unless otherwise specifically provided in this Lease, no amendment, modification, or supplement to this Lease shall be valid or binding unless set out in writing and executed by the parties hereto in the same manner as the execution of this Lease.

16.6. Construed Covenants and Severability. All of the provisions of this Lease are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate Article hereof. Should any provision of this Lease be or become invalid, void, illegal or not enforceable, it shall be considered separate and severable from the Lease and the remaining provisions shall remain in force and be binding upon the parties hereto as though such provisions had not been included.

16.7. No Implied Surrender or Waiver. No provisions of this Lease shall be deemed to have been waived by either party unless such waiver is in writing signed by the waiving party. A party's waiver of a breach of any term or condition of this Lease shall not prevent a subsequent act, which would have originally constituted a breach, from having all the force and effect of any original breach. Landlord's receipt of Rent with knowledge of a breach by Tenant of any term or condition of this Lease shall not be deemed a waiver of such breach. No act or thing done by Landlord, its agents or employees during the Term shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises shall be valid, unless in writing signed by Landlord. The delivery of keys to any of Landlord's agents or

employees shall not operate as a termination of this Lease or a surrender of the Premises. No payment by Tenant, or receipt by Landlord, of a lesser amount than the Rent due hereunder shall be deemed to be other than on account of the earliest stipulated Rent, nor shall any endorsement or statement on any check or any letter accompanying any check, or payment as Rent, be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy available to Landlord.

16.8. Successor Bound. Except as otherwise specifically provided, the covenants, terms, and conditions contained in this Lease shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties hereto.

16.9. Exclusive Rights. Tenant shall have the exclusive right to serve food and beverage to persons using the Greenhaven Golf Course owned by Landlord.

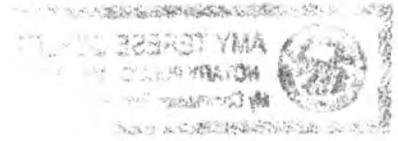
16.10. Landlord's Covenants. Landlord covenants that Tenant, on performing all of its obligations under this Lease, may peacefully and quietly have hold and enjoy the demised Premises for the Term of this Lease.

16.11. Name of Operations; Phone Number. Tenant shall use the word "Greenhaven," on a non-exclusive basis, as the name of its operations at the Premises. The word "Greenhaven" may be used by Landlord to designate any operations on the Premises during the Term and after the termination or expiration of this Lease. Tenant shall execute any consent to the use of the name "Greenhaven" which may be required by the Minnesota Secretary of State under Minnesota Statutes, Chapter 302A and 333, in order for a future tenant of the Premises to use the word "Greenhaven" in its corporate or trade name.

Notwithstanding the foregoing, Tenant shall use the name "Lancer," "Lancer Hospitality," "Blue Bell Enterprises, Inc.," "Lancer Catering," or any other legal name adopted or used by Tenant in the future for all contracts for supplies and services for the premises. The term Greenhaven shall not be used in any such contracts.

16.12. Waiver of Subrogation. Notwithstanding any other provision to the contrary, Landlord waives any and all rights of recovery against Tenant for or arising out of damage to or destruction of the Building or the Premises or personal property owned by Landlord from causes then included under standard fire and extended coverage insurance policies or endorsements, regardless of whether such damage or destruction is caused by the negligence of Tenant or its agents, servants, employees, contractors, visitors or licensees, but only to the extent that Landlord's insurance policies then in force, if any, permit such waiver. Tenant waives any and all rights of recovery against Landlord for or arising out of damage to or destruction of any property of Tenant from causes then included under the standard fire and extended coverage insurance policies or endorsements, irregardless of whether caused by the negligence of Landlord or its agents, servants, employees, contractors, visitors or licensees, but only to the extent that Tenant's insurance policies then in force, if any, permit such waiver.





## **EXHIBIT A**

### **PREMISES**

Rooms 111, 129, 131, 207 through 224, 223A, 226 through 231, and 233 through 247 on the plans entitle "Greenhaven Renovation and Additions," dated September 22, 1987, revised November 3, 1987, and the contract documents dated November 3, 1987, and addendums thereto, together with change orders number M1, E1, G1, and including alternates G1, E7 (Porte Cochere), G8, M3, E4, E5 (Pro Shop and Cart Parking, and E8 (lighting protection), all as prepared by BWBR Architects, all of which are incorporated into this Lease by reference.

## EXHIBIT B

### LEGAL DESCRIPTION

That part of the Northeast Quarter of the Northwest Quarter and of the Northwest Quarter of the Northeast Quarter of Section 1, Township 31, Range 25, Anoka County, Minnesota, described as follows: Commencing at the northeast corner of said Northeast Quarter of the Northwest Quarter; thence on an assumed bearing of South 0 degrees 10 minutes 40 seconds East, along the east line of said Northeast Quarter of the Northwest Quarter, a distance of 1152.37 feet to the actual point of beginning of the tract of land to be hereby described; thence South 49 degrees 35 minutes 26 seconds West a distance of 45.42 feet; thence South 0 degrees 31 minutes 44 seconds East a distance of 83.50 feet; thence South 70 degrees 10 minutes 14 seconds East a distance of 73.88 feet; thence North 67 degrees 56 minutes 31 seconds East a distance of 49.13 feet; thence North 0 degrees 27 minutes 59 seconds West a distance of 140.40 feet; thence South 89 degrees 33 minutes 56 seconds West a distance of 56.10 feet; thence South 49 degrees 35 minutes 26 seconds West a distance of 51.50 feet to the actual point of beginning.

# COUNCIL WORKSESSION MEMO

3.2

Meeting Date	July 25, 2016
Agenda Section	Council Business/Discussion Items
Item Description	Discussion; City Code Update Related To Signs
Submitted By	Doug Borglund, Deputy Community Development Director

## **BACKGROUND INFORMATION:**

One of the goals for the City of Anoka Planning Commission in 2016 is to review and update the sign ordinance, and review all other sections of the zoning ordinance that relate to signs. The Planning Commission also discussed this topic a few years ago, and identified some areas of the sign ordinance that may need to be investigated or updated. Recently, the Planning Commission discussed this issue back in February.

The purpose of updating the sign regulations is to examine existing sign regulations and to identify changes needed to better support current City goals for business development, maintain a visually vibrant commercial districts, and attractive streetscapes.

The last comprehensive sign ordinance update was over 20 years ago. During this 20-year time period technology trends, social trends, economic trends, legal trends, and ideas about community image have changed. The City of Anoka has evolved and changed.

Further, signage is a form of speech that is protected by the constitution of the United States and the State of Minnesota. Prior challenges to regulations that affect messages have resulted in a body of case law that establishes general principles for jurisdictions like the City of Anoka to respect and observe when seeking to regulate signs. Generally, for a signage regulation to meet constitutional standards, an ordinance or set of regulatory standards must constitute a reasonable time, place, and manner regulation or restriction on this type of speech. This means that signage should:

- Be limited to where, when, and how signage can be installed;
- Should not regulate the content of speech (in other words, generally must be content-neutral and not regulate speech based upon what message is being communicated);
- Must serve a significant governmental interest: and
- Must leave open ample channels for effective communication of information.

Because signage regulations implicate free speech principles, those regulations also must be clearly written, narrowly tailored and cannot leave discretion in the hands of a government official to determine what is allowed under a regulation (Ex. Signs as determined by the City Planner...)

Courts have found that local governments do have a significant governmental interest in establishing regulations to further the aesthetics of their community (such as the prevention of visual clutter and blight, to contribute to the historic character of a historic district, etc.).

Tackling sign regulations is not an easy task from a staff perspective. As a staff person you must try to balance community image, a business friendly environment, local political interests, and changes in technology and product trends in the marketplace. Staff's recommendation and strategy is to work towards drafting a sign ordinance over the coming months that will achieve the following specific goals.

The goals related to updating the sign ordinance are listed below:

- Clarify
- Modernization
- Simplify
- Resolve current issues
- Streamline where possible
- Enhance Community Character
- Create a legal sound set of standards
- Create standards that are readily enforceable

### **Creation of a Sign Ordinance Update Task Force**

If the City Council determines it is appropriate to move forward and update the City's sign regulations, it becomes extremely important to have involvement from all perspectives affected by the sign regulations. The creation of a task force to work closely with staff as the changes are developed could bring all the stakeholders to the table. Below is a snapshot of what a task force could look like:

- |                      |                          |
|----------------------|--------------------------|
| 2 members of the PC  | 1 member of ABLA         |
| 1 members of the EDC | 1 member of the HPC      |
| 1 member of the CC   | 1 Chamber Representative |



The Task Force would work with Staff in a review and react format. Staff will be responsible for the meeting schedule, meeting logistics, communications, and providing draft material for the task force to react to and make comment and make suggestions as a group. The taskforce will forward a draft ordinance to the Planning Commission for their review and reconsideration once the draft is completed.

**Noted below are just some of the items that warrant discussion. As the process starts to unfold, all aspects of the current sign regulations would be reviewed and discussed.**

1. **General:**

- Some zoning district sections include their own sign standards, and some zoning district sign standards are only located in Article VIII – Signs. A possible change could be to bring all standards on signs into Article VIII – Signs. Currently, there are multiple locations within the existing Zoning Ordinance where signs are regulated. This can make things very difficult and complicated for all users to find the appropriate information.
- Sign area allowances in each zoning district should be reviewed and updated if needed.

2. **Definitions:**

- Definitions need to be updated in general as they relate to the ordinance

3. **Digital Copy Sign:**

- Investigate potential new language and standards for illuminated signs and LED signs.
- Ensure that illuminated and LED signs are properly regulated to control impacts adjacent properties and the traveling public.
- Create standards that are clear and concise when it becomes time to deal with a complaints or issues.



*Digital Sign Copy*



*Digital Sign Copy*

#### **4. Temporary Signs in all Commercial District:**

Throughout the City there are a large numbers of temporary signs up that have an impact on community image. These types of signs communicate content such as a special event, sale, etc. Some properties may have as many 7 temporary signs currently.

*Summary of current temporary sign regulations:*

- Banners are allowed with no limit other than they have to be placed on the building and conform to the maximum amount of signage allowed for permanent signage even though they are a temporary type of signage. Should temporary signage and permanent signage be separated? Most City's separate the sign types and have separate standards for each.
- Portable/Trailer type of signs. Currently, these types of signs are allowed with a permit up to 30 days at a time, but no more than 90 days or 3 times a year. Often these types of signs are placed in a public right-of-way and are difficult to track and enforce.
- Festoons and Pennants are permitted without a permit. They must be maintained in good condition. May not be attached to utility poles or placed in the right-of-way. Should there be a limit?
- Sandwich Board signs are currently prohibited from use by ordinance. They are currently used heavily in the downtown area. Should the regulations be changed to allow them?
- Flying banners are not addressed by the current ordinance.
- Window signs are allowed but are not allowed to occupy more than 40% of the window area on any building frontage.

**Below are photo examples of temporary signage types that can be viewed out in the community below:**



*Temporary Banners attached to a permanent sign.*



*Temporary Banners*



*Temporary Banner and Flying Banners*



*Temporary Flying Banner*



*Temporary Portable Signs*



*Temporary Portable Sign*



*Temporary Streamers/Festoons*



*Temporary Real Estate Style Advertising Sign*



*Temporary Sandwich Board Sign*



*Temporary Sandwich Board Sign*



*Temporary Window Signs*



*Temporary Window Signs*

## 5. Highway 10:

- Create an overlay district that would address the impact on signage due to changes in the road deck height of Highway 10 when the Anoka Solution plans are implemented
- A potential solution would be to amend the zoning code to adjust the sign regulations for the properties along Highway 10 to ensure that signage is still visible from the elevated roadway. Bolton & Menk has provided some preliminary analysis and determined heights that might be required for signs to be visible from the roadway. One recommendation from Bolton & Menk is to regulate sign height based on the adjacent roadway elevation (a photo is included below as an example).



Highway 10 Concept

### **FINANCIAL IMPACT:**

No financial impact.

### **COUNCIL REQUESTED ACTION:**

Staff is seeking direction from the City Council if there is interest to review and update the Chapter 74. Zoning, Article VIII. Signs of the City Code and provide suggestions for study or research.



# COUNCIL WORKSESSION MEMO

3.3

Meeting Date	July 25, 2016
Agenda Section	Council Business/Discussion Items
Item Description	Discussion; Cottage Food Law
Submitted By	Chuck Darnell, Associate Planner

## **BACKGROUND INFORMATION**

At a recent City Council meeting, a resident brought to the Council's attention a new law that was enacted by the state that would allow individuals to prepare and sell food from their home. The law is referred to as the Cottage Food Law or Cottage Food Exemption, and is included in Minnesota Statutes 28A.152. The law allows for individuals to be exempt from normal food handling and food production licensure processes. It does not allow for businesses to operate under the exemption, which would include firms, partnerships, cooperatives, societies, associations, companies, and corporations. It allows solely for individuals or individuals registered as a sole proprietorship to operate under the exemption.

The Cottage Food Law only allows for production and sale of food that is not defined as "potentially hazardous", such as baked goods, jams, jellies, pickled items, and canned items with pH values of 4.6 or less. A comprehensive list of these non-potentially hazardous (NPH) foods is kept up to date by the Minnesota Farmers' Market Association. There are also a number of resources available through the Department of Agriculture, the Minnesota Farmers' Market Association, and the University of Minnesota Extension for individuals that are interested in producing and selling food products under the Cottage Foods Exemption.

The Cottage Food Law requires that an individual sell their food products directly to the ultimate consumer. The Law allows for the food products to be sold at a community event or farmers' market, but also allows for the food products to be sold directly from the individual's home to the consumer, to the extent allowed by local ordinance.

The Cottage Food Law requires that individuals register with the Department of Agriculture. Individuals must also participate in an approved food safety course, and the Department of Agriculture can request an inspection of the food preparation area at any time if they have suspicion or are aware of any health concern related to a registered individual. There are also strict labeling requirements, and limits on the amount of income that an individual can generate from food sales annually.

Minnesota Statutes 28A.152, subp. 6 states as follows: "This section does not preempt the application of any business licensing requirement or sanitation, public health, or zoning ordinance of a political subdivision". Therefore, local zoning regulations can still prohibit the type of activity that is allowed by the Cottage Food Laws. That is the case in the City of Anoka, as the current home occupation regulations list "Preparation of food for sale" as a prohibited home occupation (Section 74-211 (d)(10)(k)).

## **Discussion**

Staff would like the City Council to discuss whether the City of Anoka should amend the list of permitted/prohibited home occupations to allow for the type of food production that is now allowed under the Cottage Food Law.

Considerations include:

- What type of food preparation would we allow? Only those individuals that are registered under the Cottage Foods Exemption?

- Individuals preparing food for sale at their home under the Cottage Foods Law, if permitted, would still be required to abide by the performance standards required of all home occupations in Anoka. Particular performance standards of importance with this type of home occupation would include:
  - Section 74-211 (d)(7)(c): This performance standard does not allow for sales of products fabricated *off the premises*. This would not apply for Cottage Foods producers, as the food products would be produced on site.
  - Section 74-211 (d)(7)(e): This performance standard states that only members of the family occupying the dwelling unit may carry on the home occupation. This should not be an issue with Cottage Foods producers, as the Cottage Foods registration is only allowed for individuals. Therefore, a Cottage Foods producer would not be allowed to have any outside employees either.
  - Section 74-211 (d)(7)(j): This performance standard requires that no more than one client or customer patronize the dwelling unit of the home occupation at one time. If a Cottage Foods producer was to conduct sales directly from the home, this performance standard would need to be abided by.
- The City Council should consider whether this type of home occupation can be conducted in residential neighborhoods without jeopardizing the health, safety, and general welfare of the surrounding neighborhood.
- The City Council should also consider whether any additional performance standards or conditions should be included if this type of home occupation were to be permitted. The Cottage Foods Law does allow for local zoning ordinance requirements to be enforced, which would allow for the City to place additional restrictions on Cottage Foods producers if the Planning Commission finds that they would better maintain the health, safety, and welfare of the surrounding neighborhood.

### **Planning Commission Discussion**

The Planning Commission discussed this item at their July 19, 2016 work session meeting, and there were some concerns with the Cottage Food Law regulations and a discussion on whether this type of home occupation should be permitted. Some of the issues discussed included:

- Enforceability of the Cottage Food Laws. Staff stated at the meeting that the City would not be involved in the enforcement of the Cottage Food Law requirements. The Department of Agriculture would be responsible for enforcement of the actual Cottage Food Law requirements. The Department of Agriculture will conduct inspections of food producers at farmers markets and other community events, and will also conduct in-home inspections if they are made aware of any health issue.
- Whether the City should include additional restriction in allowing Cottage Food producers to operate as a home occupation. Additional restrictions discussed included allowing only certain types of non-potentially hazardous (NPH) foods and not allowing sales of food products directly from the home.
  - Some of the types of NPH foods could still be a health and safety concern, such as baked goods and frosting. Canned goods could be considered to be safer and less likely to cause health concerns.
  - Allowing the sale of food products directly from the home could increase traffic in residential neighborhoods. However, the City would need to have reasoning for restricting the sale of food from the home when we allow other types of home occupations to sell their products from home.
- Liability concerns. The Planning Commission wanted to ensure that the City, by allowing this type of home occupation and activity to occur, could not be held liable if a consumer gets sick by purchasing food from a Cottage Food Law producer. Staff will be investigating this further and having the City Attorney provide input.
- How other cities in the area are handling the new Cottage Food Laws. Staff will be investigating whether other cities in the area (such as Coon Rapids, Andover, Champlin, etc.) are allowing this type of activity to occur as a home occupation.

## ***Attachments***

The attachments included in the packet provide a lot of background material on the Cottage Food Law and the requirements that producers would have to abide by. These informational materials have been provided in case the Council wants to research the issue in detail. The most important attachments to read would be the Minnesota Statutes and the Cottage Foods Law Fact Sheet.

- Minnesota Statutes 28A.152 – Cottage Food
- Home Occupations Section of Zoning Ordinance (relevant provisions are highlighted)
- Minnesota Farmers’ Market Association – Cottage Foods Law Fact Sheet
- Minnesota Farmers’ Market Association – List of Non-Potentially Hazardous (NPH) Foods
- Department of Agriculture – Cottage Food Law FAQs

## **FINANCIAL IMPACT**

None.

## **COUNCIL DIRECTION REQUESTED**

Provide direction to staff on whether to amend the list of permitted/prohibited home occupations to allow for the type of food production that is now allowed under the Cottage Food Law. Based on direction, staff will draft ordinance amendments and bring those forward to the Planning Commission, and then to the City Council at a future regular City Council meeting.

**28A.152 COTTAGE FOODS EXEMPTION.**

Subdivision 1. **Licensing provisions applicability.** (a) The licensing provisions of sections 28A.01 to 28A.16 do not apply to the following:

(1) an individual who prepares and sells food that is not potentially hazardous food, as defined in Minnesota Rules, part 4626.0020, subpart 62, if the following requirements are met:

(i) the prepared food offered for sale under this clause is labeled to accurately reflect the name and address of the individual preparing and selling the food, the date on which the food was prepared, and the ingredients and any possible allergens; and

(ii) the individual displays at the point of sale a clearly legible sign or placard stating: "These products are homemade and not subject to state inspection."; and

(2) an individual who prepares and sells home-processed and home-canned food products if the following requirements are met:

(i) the products are pickles, vegetables, or fruits having an equilibrium pH value of 4.6 or lower;

(ii) the products are home-processed and home-canned in Minnesota;

(iii) the individual displays at the point of sale a clearly legible sign or placard stating: "These canned goods are homemade and not subject to state inspection."; and

(iv) each container of the product sold or offered for sale under this clause is accurately labeled to provide the name and address of the individual who processed and canned the goods, the date on which the goods were processed and canned, and ingredients and any possible allergens.

(b) An individual who qualifies for an exemption under paragraph (a), clause (2), is also exempt from the provisions of sections 31.31 and 31.392.

Subd. 2. **Direct sales to consumers.** (a) An individual qualifying for an exemption under subdivision 1 may sell the exempt food:

(1) directly to the ultimate consumer;

(2) at a community event or farmers' market; or

(3) directly from the individual's home to the consumer, to the extent allowed by local ordinance.

(b) If an exempt food product will be delivered to the ultimate consumer upon sale of the food product, the individual who prepared the food product must be the person who delivers the food product to the ultimate consumer.

(c) Food products exempt under subdivision 1, paragraph (a), clause (2), may not be sold outside of Minnesota.

(d) Food products exempt under subdivision 1 may be sold over the Internet but must be delivered directly to the ultimate consumer by the individual who prepared the food product. The statement "These products are homemade and not subject to state inspection." must be displayed on the Web site that offers the exempt foods for purchase.

Subd. 3. **Limitation on sales.** An individual selling exempt foods under this section is limited to total sales with gross receipts of \$18,000 or less in a calendar year.

Subd. 4. **Registration.** An individual who prepares and sells exempt food under subdivision 1 must register annually with the commissioner. The annual registration fee is \$50. An individual with \$5,000 or less in annual gross receipts from the sale of exempt food under this section is not required to pay the registration fee.

Subd. 5. **Training.** (a) An individual with gross receipts between \$5,000 and \$18,000 in a calendar year from the sale of exempt food under this section must complete a safe food handling training course that is approved by the commissioner before registering under subdivision 4. The training shall not exceed eight hours and must be completed every three years while the individual is registered under subdivision 4.

(b) An individual with gross receipts of less than \$5,000 in a calendar year from the sale of exempt food under this section must satisfactorily complete an online course and exam as approved by the commissioner before registering under subdivision 4. The commissioner shall offer the online course and exam under this paragraph at no cost to the individual.

Subd. 6. **Local ordinances.** This section does not preempt the application of any business licensing requirement or sanitation, public health, or zoning ordinance of a political subdivision.

Subd. 7. **Account established.** A cottage foods account is created as a separate account in the agricultural fund in the state treasury for depositing money received by the commissioner under this section. Money in the account, including interest, is appropriated to the commissioner for purposes of this section.

**History:** *1Sp2015 c 4 art 2 s 53*

- b. One bedroom dwelling unit, 600 square feet.
- c. Two bedroom dwelling unit, 800 square feet.
- d. Three or more bedrooms per unit shall have an additional 100 square feet of floor area for each bedroom in excess of two bedrooms.

For purposes of measurement, the net floor area of a dwelling unit shall mean that area within a building used as a single dwelling unit, and shall be measured from the inside walls to the center of partitions bounding the dwelling unit being measured, but shall not include public stairways, public entries, public foyers, public balconies, or unenclosed public porches, separate utility rooms, furnace areas or rooms, storage areas not within the apartment or garages.

(c) *Design and construction requirements in multiple-family residence districts.* The design and construction requirements in multiple-family residence districts shall be as follows:

- (1) *Design review.* A site plan for a multiple-family dwelling must be reviewed by the planning commission and approved by the City Council prior to construction.
- (2) *Accessory buildings.* The City Council may require common walls for accessory buildings where common walls will eliminate unsightly and hazardous areas. Exteriors of accessory buildings shall have the same exterior finish as the main structure or some other compatible finish approved during the site plan review.
- (3) *Recreation and open space.* Multiple-family residential projects shall contain an adequate amount of land for park, recreation or local open space use, exclusive of sump and drainage areas, consistent with the requirements of chapter 54 of this Code.

(d) **Home occupations.**

- (1) **Purpose.** The purpose of this subsection is to prevent competition with business districts and to provide a means, through the establishment of specific standards and procedures, by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety and general welfare of the surround neighborhood.
- (2) *Application.* Subject to the nonconforming structure and use provisions of this chapter 36, all occupations conducted in the home shall comply with the provisions of this subsection.
- (3) *Inspection.* The City hereby reserves the right, upon approval of any home occupation, to inspect the premises in which an occupation is being conducted to insure compliance with the provisions of this subdivision or any conditions additionally imposed.

- (4) *Violations.* After two nuisances or Code violation complaints have been made and verified with written notices to the home occupation, a public hearing may be called to reconsider the home occupation within 60 days of the last complaint.
- (5) *Revocation.* An interim use permit for a home occupation may be revoked if (i) the property is found to be in violation of the conditions listed in the interim use permit or (ii) if access to the property for the purpose of making an inspection is refused to the zoning administrator or their designee. The same process established for granting an interim use permit for a home occupation shall be followed when considering revocation of a interim use permit for a home occupation.
- (6) *Penalty.* Violation of the home occupation performance standards shall be subject to the enforcement and penalty provisions as contained in this chapter.

(7) *Performance standards.* Performance standards for home occupations shall be as follows:

- a. The home occupation must be clearly incidental and secondary to the residential use of the premises, shall not change the residential character thereof, and shall not result in incompatibility or disturbance to the surrounding residential uses.
- b. No home occupation shall require external alterations or involve construction of features not customarily found in dwellings except where required to comply with the state fire and building code regulations.
- c. No retail sales of products fabricated off the premises is allowed except for occasional sales of retail products if the dwelling serves as an office for a person regularly engaged in retail sales outside the dwelling but has no other office and if such occasional sales are incidental to and not the primary purpose of the home occupation.
- d. No stock in-trade other than that permitted under subsection (d)(7)c of this section shall be kept or sold on the premises.
- e. Only members of the family occupying the dwelling unit may carry on the home occupation.
- f. There shall be no exterior display, exterior signs, interior displays or interior signs which are visible from outside the dwelling, unless approved with an interim use permit and the property fronts a road designated as an "A" Minor Arterial by the Future Functional Classification Plan Map in the Anoka Community Plan. Home occupation business signs may be either wall or freestanding-type sign. Freestanding signs shall be a maximum of five square feet in area, a minimum of five feet from property lines, shall not be within the sign triangle of any intersection or driveway, and shall be limited to six feet in overall height.

- g. No outside storage or display is permitted.
- h. No significant increase in levels of noise, dust, smoke, gas, heat, vibration, glare, fumes, odor or electrical interference shall be detectable to the normal senses off the premises.
- i. No on street parking of vehicles related to the home occupation is permitted.
- j. No more than one client or customer may patronize the dwelling unit at one time.
- k. The space devoted to the occupation shall have an inside entrance into the dwelling area.
- l. All home occupations shall be conducted entirely within the dwelling and not in an attached or detached garage or in an accessory building unless upon approval of an interim use permit by the City Council after recommendation by the planning commission.
- m. No more than 25 percent of the gross floor area of the dwelling unit shall be used for the occupation.
- n. There is no increase in sewer, water, gas, electricity, or garbage usage in excess of what is normal in a residential neighborhood such that the neighborhood is adversely affected.
- o. No customer waiting areas are allowed.
- p. All licenses or permits required to carry on the occupation shall be obtained.

(8) *Permitted home occupations.* The following home occupations and similar occupations as determined by the City Council are permitted accessory uses in all residential districts only if all conditions in subsection (d)(7) of this section are fully observed.

- a. Artist, author, composer, sculptor.
- b. Home crafts, such as model making, rug weaving, woodworking, and similar activities, provided that no machinery or equipment shall be used or employed other than that which would customarily be found in the home, including machinery or equipment that would be ordinarily be employed in connection with a hobby or avocation not conducted for gain or profit.
- c. Dressmakers, seamstresses and tailors.
- d. Beauticians and barber shops.

- e. Home offices for accountants, architects, engineers, lawyers, realtors, insurance agents, brokers, clergy, consultants, contractors, land surveyors, musicians, salesman, sales representative, manufacturer's representative, travel agent, home builders and home repair contractors.
- f. Mail order, not including retail sales from the site.
- g. Music and art teachers or other tutoring services.
- h. Telephone answering.
- i. "Work at home" activities where employees of a business, located at another location, perform work for the business in their own residence, provided all physical contact between the business and the employee occurs at the place of business and not the residence, other than the initial installation of any equipment or other work facilities. The work activities of the employee shall conform with all other requirements of this subsection.
- j. Other occupations that fully comply with the standards in subsection (d)(7) of this section.

(9) *Home occupations allowed with an interim use permit.* The following home occupations are permitted as an accessory use upon approval of an interim use permit by the City Council after recommendation by the planning commission:

- a. Home occupations with the following characteristics:
  - 1. A maximum of one outside employee.
  - 2. Outside parking of no more than one commercial type vehicle identified for business purposes not to exceed one-ton capacity and used for both personal and business transportation. The vehicle is to be owned and registered to an occupant of the property and parked in a screened location.
- b. Ceramic classes with a kiln up to six cubic feet in size.
- c. Domestic animal grooming.
- d. Other home occupations which substantially comply with the standards set forth in subsection (d)(7) of this section.
- e. Other proposed home occupations that are determined to be similar in character to those listed in subsection (d)(8) of this section of this section.

(10) *Particular home occupations prohibited.* The following uses, and similar uses, shall not be permitted as a home occupation in any residential district:

- a. Antique shops, boutiques, dress shops, and gift shops.
- b. Photo studio, processing lab, and portrait studios.
- c. Restaurants, coffee shops, and tearooms.
- d. Offices for physicians, dentists, veterinarians, physical or massage therapists, and chiropractors.
- e. Animal hospital or kennel.
- f. Auto repair and painting, including the repair of engines, motor vehicles, motorcycles, and heavy equipment.
- g. Dancing schools and studios.
- h. Dispatching of transfer and moving vans at the site.
- i. Furniture repair and refinishing.
- j. Palm reading or fortune telling.
- k. Preparation of food for sale.
- l. Radio, television and appliance repair shops.
- m. Raising of animals for sale.
- n. Shops for contractors and tradesmen, such as electricians, plumbers and carpenters.
- o. Sign painting.
- p. Boarding and lodging houses, unless specifically permitted by the district regulations.
- q. Tattoo business.
- r. Tanning salons.
- s. Any occupation that requires a federal firearms license, including the sale of firearms; except where each of the following conditions exist:
  - 1. An occupant residing on the premises holds a valid and current federal firearms license and has held the license continuously since December 31, 1995;
  - 2. The occupant had an established occupation at the premises that required a federal firearms license as of December 31, 1995, and has not discontinued such occupation; and

3. At the time of the most recent renewal of the occupant's federal firearms license:

i. The premises were inspected by the City and the City certified that the premises (i) were equipped with an adequate security system and (ii) were otherwise adequately protected against theft of firearms from the premises;

ii. The occupant has met all the criteria for licensing under the federal firearms code and the individual, in the opinion of the City police department, has been found to be honest, reliable and of good character; and

iii. The police department has not received more than three complaints within the past five years related to this use of the premises.

t. Trash hauler operations other than a home office.

u. Any home occupation which does not substantially comply with the standards set forth in subsection (d)(7) of this section.

(11) *Application materials.* Prior to the issuance of an interim use permit for a home occupation an application must be submitted which contains the following information:

a. The owner of the property and the person who will be conducting the home occupation.

b. The street address of the dwelling.

c. The type of home occupation.

d. The type of equipment that will be used.

e. The days and hours which the home occupation will be conducted.

f. A description of any motor vehicles which will be used in connection with the occupation, and whether or not the applicant has had any previous denials for a similar request elsewhere.

g. A plan or drawing of the dwelling which shows clearly and in reasonable detail the portion of the dwelling which is to be used for the home occupation, the number of square feet of living area contained in the dwelling, and the number of square feet to be used for the home occupation.

The application for an interim use permit for a home occupation will be processed according to section 74-34.



## FACT SHEET

# THE 2015 MINNESOTA COTTAGE FOODS LAW

Minnesota Statute 28A.152 Cottage Foods Exemption  
Effective July 1, 2015

## The 2015 MN Cottage Foods Law MFMA Fact Sheet

### The Basics

- Who Must Register
- Sales
- Canned Foods Peculiarities
- Label requirements
- Local Ordinances

### The Registration Process

### The Details Behind the Basics

- Other Labeling Concerns
- “Individual” and “Sales” Limitations
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- Cottage Foods at Farmers’ Markets
- Product Liability Insurance
- Public Access to Cottage Foods Producer Registration

### Non-Compliance: Consequences and Reporting

- Consequences
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### M.S. 28A.152 Cottage Foods Exemption

#### Background

The 2015 Minnesota Cottage Foods Exemption, M.S. 28A.152, replaces M.S. 28A.15, subdivisions 9 and 10. Subdivisions 9 and 10 allowed certain non-potentially hazardous (NPH) foods (basically baked goods, jams and jellies, and pickled items, with pH values of 4.6 or less), to be exempt from food licensing when made in home kitchens and sold only at farmers’ markets or community events, with a \$5,000 in gross sales per person per year cap.

Over the years, various issues arose with the old law:

- vendors at farmers’ markets wanted to keep selling their NPH food items under the exemption from their homes once their farmers’ markets ended for the season, but could not since the old law only allowed sales at farmers’ markets or community events
- home bakers who did not sell at farmers’ markets or community events, but were baking the exact same NPH foods, wanted to sell from their homes
- the \$5,000 gross sales /person / year cap was not high enough for many farmers’ market vendors
- the old law never required food safety training, even though the food was being sold to the public. The Minnesota Department of Agriculture (and the Minnesota Department of Health) have legal responsibility to ensure safe food products are being sold to the public.

The initial impetus for this law started six years ago with an informally organized group led by Shelley Erickson of Big Lake, and Marianne Sussman of Minneapolis. Primary bill authors were Rep. Jim Newberger (R) from Becker and Sen. Scott Dibble (D) from Minneapolis.

MFMA got involved in 2015 when language in the initial bill contained wording that would have prohibited most baked goods from being sold even at farmers’ markets. Additionally, since many vendors at farmers’ markets sell both baked foods and pickled foods, MFMA felt it prudent to treat all the NPH foods similarly under the new law. Collaborating on the passage of the law: MFMA, MDA, MDH, Minneapolis Department of Environmental Health, League of Minnesota Cities, Minnesota Grocers Association, Local Food Advisory Committee, University of Minnesota Extension, and many delegated authorities of MDA and MDH.

## The Basics

The 2015 MN Cottage Foods Law is an exemption from food licensing for non-potentially hazardous (NPH) foods (aka cottage foods), as long as specific conditions are met by the cottage foods producer.

Under this exemption, NPH foods include baked goods; certain jams and jellies; canned pickles, vegetables, fruits with a pH of 4.6 or lower. (For the approved list of NPH foods, go to [www.mfma.org](http://www.mfma.org).)

### Who Must Register

*All individuals* must register with the Minnesota Department of Agriculture before selling cottage foods. This includes all vendors at all farmers' markets in Minnesota who sold this type of NPH food prior to the enactment of this new law. The registration is valid for one calendar year, January 1 – December 31.

*All individuals* must take some form of MDA-approved food safety training before selling food; and must retrain every three years. MDA and the University of Minnesota Extension are collaborating to offer in-person and online food safety training. (The certified food manager course is not accepted at this time by MDA because it does not cover the specifics of this law.)

### Sales

Gross sales on cottage foods per *individual* cannot exceed \$18,000 in a calendar year. *Individuals* selling between \$0 and \$5,000 register with MDA annually for free. *Individuals* selling between \$5,001 and \$18,000 register with MDA annually for \$50. Sales are based on what was sold the previous year. Income under this law (just as it was under the previous law) is taxable income.

The individual who makes the cottage foods must be the same individual who sells the foods; the food must be sold and delivered directly to the ultimate consumer by the individual who made it.

Cottage foods sales may be from the home, at farmers' markets, at community events, or on the Internet. While cottage foods can be sold on the Internet, they still must be delivered by the individual who prepared them directly to the ultimate consumer. If you have a Community Supported Agriculture (CSA), and have a Cottage Foods Producer Registration, customers must come to your place of residence to pick up products; or you, as the producer, must deliver them directly to customers. You may not leave products for customer pick up at a location other than your residence.

### Canned Foods Peculiarities

Moreover, under this exemption, home-processed and home-canned foods can only be sold *in Minnesota*, due to federal laws. This limitation only applies to home-processed and home-canned foods; not baked goods, etc. You may purchase out-of-state food products and can them; the out-of-state limitation is for the *production and sale* of the canned goods only, so you could buy produce from wherever and can it, but the canning has to occur in Minnesota.

Pressure canners can be used to process acidic fruits or acidified foods, as long as there is an approved pressure canner process for the product you want to can. You will not find a pressure canner process for pickled products, however, because the result would be an inferior product.

Pressure-canning is required for low-acid foods like vegetables, meats, fish, soups and mixed ingredient sauces but these products are *not allowed* under the cottage foods exemption. There are some naturally acidic fruits and acidified tomato products that do have tested procedures for pressure canning and those products would be allowed.

### Label Requirements

Cottage foods must be labeled with the following information:

- The name and complete home address of the registered individual(s) preparing the food (E.g., if a mother and son both register and prepare their cottage foods, then both their names and home address must appear on the label. If you as an individual are also a DBA (doing business as), then your DBA name must be registered and must appear on the label as well.
- The date the food was *prepared*.
- The list of ingredients contained in the product, including allergens. The allergens of concern are: milk, eggs, wheat, soy, peanuts, tree nuts, fish, and shellfish.
- If you sell individual baked goods (e.g., cookies), you must display the label near the foods at the point of sale.

Additionally, you must post a notice at the point of sale (including on your website if you sell on the internet) as follows:

1. “These products are homemade and not subject to state inspection.”
2. “These canned goods are homemade and not subject to state inspection.”

Furthermore, you should keep your Cottage Food Producer Registration certificate with you when selling. A MDA food inspector may ask to see it. If your registration cannot be verified, MDA will require you to stop selling food. MDA offices are not open on weekends or holidays so the MDA’s database may not be available to confirm your registration, even though inspections are conducted on weekends in some locations.

### Local Ordinances

The cottage foods exemption does not supersede local ordinances. The law states “This section does not preempt the application of any business licensing requirement or sanitation, public health, or zoning ordinance of a political subdivision.” MDA is prohibited from issuing a registration unless you comply with local laws.

## The Registration Process

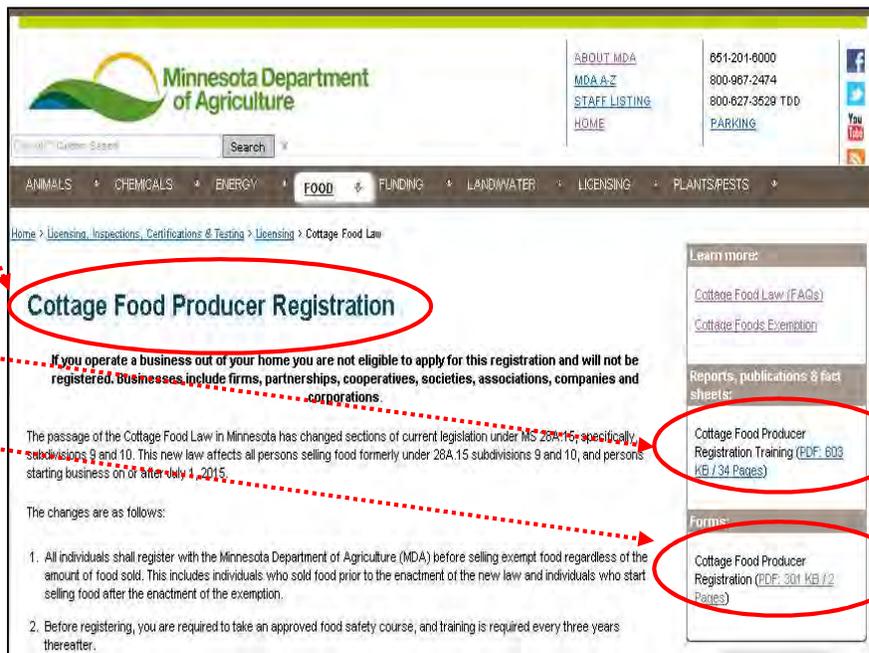
In order to complete the registration form, you will need your contact information, your Minnesota Tax ID or Social Security Number, at which sales level you’re registering, and the list of products you’ll make and sell. Once you are successfully registered, the MDA will mail you your Cottage Foods Producer Registration certificate.

If accessing the online content is difficult, you can get help directly from the MDA by:

- o Calling MDA at (651) 201-6027
- o Visiting MDA at 625 North Robert Street, St. Paul MN 55155-2538
- o Contacting your local MDA Food Inspector to help you complete the registration:  
<http://gis.mda.state.mn.us/food/>

Registering is a 3-step process:

1. Read the info on MDA’s “Cottage Food Producer Registration” page (or MFMA’s fact sheet) so you understand the law.
2. Take a MDA-approved food safety training.
3. Complete the registration form. The form requires your signature, so you’ll need to print it, sign it, scan it and email it to the MDA; or print and mail it to them.



## The Details Behind The Basics

As with many laws, there are numerous details underlying the 2015 Minnesota Cottage Foods Law that need further explanation. Following is a discussion on the issues that have surfaced to date.

### Other Labeling Concerns

There are other food facts you could put on your labels, but they are NOT required under this cottage foods exemption. Following are some tips if you do choose to use these:

- Gluten-free claim: to qualify as gluten-free any unavoidable presence of gluten in the food must be less than 20 ppm.
- Sugar-free claim: must contain less than 5 calories per reference amount customarily consumed and per labeled serving.
- Dietary supplement claim: if you sell your cottage food as a dietary supplement, then you would have to have the supplement facts panel on the label.
- If you freeze baked products and sell them as orders come in, you still must put the date the food was prepared on the label. When you remove the baked foods from the freezer you could write the date the products were removed from the freezer. This is not required, however, since they are non-potentially hazardous foods.
- Cooking sprays, or ‘releasing agents’ are considered direct food additives, but if used correctly, should not end up as a functional ingredient in the finished product, and thus would not need to be labeled. If you spray it directly onto cookies, bars, bread, etc., rather than the light coating recommended for the pan, that would be different; then you need to add it as an ingredient. Parchment paper is a good alternative to cooking spray; especially with allergen concerns and possible soy lecithin in many of those sprays
- Ingredients that are less than 2% of the finished product must be listed on the label, but these ingredients can be placed at the end of the statement with language stating ‘contains less than 2% of the following ingredients: ....’
- Incidental addition of water from washing an ingredient does NOT need to be listed on the label since this water is part of the production process and should not be getting into the finished product as a functional ingredient.
- Equipment used to make and store your food products does NOT need to be listed on the label (e.g., BPA-free, Teflon, aluminum pans, etc.) but if it is a concern, you can have a conversation with your customers when they order or purchase your product about what type of equipment you use.
- Nutrient analysis and nutrition facts panel: not required.

Two resources for your reference:

- <http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Allergens/ucm362880.htm>
- <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcr/CFRSearch.cfm?fr=101.60>

### “Individual” and “Sales” Limitations

Since the law used the word ‘individual,’ you can only register as an ‘individual;’ not as an LLC, LLP, corporation, association, non-profit, cooperative, etc.

However, an individual could be a sole proprietorship; and be registered with the Secretary of State as a DBA (Doing Business As). The legal name for a sole proprietorship is still the individual’s name, not the DBA name. If you have a DBA, it has to be registered with the Secretary of State before use, and both your legal name and the name of the DBA should be on the registration form.

Other possible ‘individual’ scenarios:

- A family who works together making and selling cottage foods could all choose to take the training and register as ‘individuals.’ For instance, a family of four could then register at the top sales tier, each pay the \$50 annual register fee (4 x \$50 = \$200) and then earn up to \$18,000 in gross sales / year / ‘individual,’ or up to \$72,000 / year / family of four.
- An ‘individual’ who is a sole proprietor could have employees / volunteers. An employee / volunteer could sell at for the ‘individual’ as part of the sole proprietorship and would not have to train and register. However, since the individual is the sole proprietorship, the gross sales per year would be capped at \$18,000; not \$18,000 per employee / volunteer.
- An ‘individual’ can be a youth. There is not a minimum age requirement. Training materials are written at an 8<sup>th</sup> grade reading level and required for registration. The Minnesota Department of Labor and Industry have exemptions to the child labor law for a minor if the business is solely owned and the minor is supervised by one or both parents. See <http://www.dli.mn.gov/ls/minage.asp>.

Minnesota also has a legal definition for the “sale” or “selling” of food in [M.S. 34A.01, subd. 12](#). In Minnesota, donating food products is the same as selling and would be considered wholesale and / or resell. As a registered cottage food producer, since you must sell your product directly to the ultimate consumer, you cannot donate cottage food products to church bake sales, school bake sales, etc. Furthermore, you can’t donate cottage food products to a food pantry, shelter or other food rescue program, since that would be considered reselling.

### Non-Minnesota Cottage Foods Producers

The MN Cottage Foods Law pertains to all cottage foods sold in Minnesota, even if they are produced in another state; although *home-canned* foods are treated differently than the other cottage foods.

- For baked goods, jams, jellies, etc., all non-Minnesota cottage food producers must follow the same process as Minnesota residents: you need to take the training and register with the MDA.
- Home-canned foods, on the other hand, *cannot* cross state lines under this exemption, due to federal laws that require acidified foods to be produced in a licensed kitchen in order to be sold via interstate commerce. The sale of acidified products crossing state lines need to be registered and the process filed with FDA. See this link: <http://www.fda.gov/Food/GuidanceRegulation/FoodFacilityRegistration/AcidifiedLACFRegistration/ucm2007431.htm>

### Approved (Tested) Recipes

There are hundreds of tested and approved canning recipes (see MFMA’s NPH Foods List at [www.mfma.org](http://www.mfma.org) for a list of references.) There are fewer ‘tested’ recipes for baked goods, however.

The MDA Cottage Foods Team has deemed most baked goods and dried foods, probably 95%, would not need to be tested or have a recipe review. These products are baked or dried, which reduces water activity and places them in the non-potentially hazardous food category. However, for unusual products mixing higher water activity products together or baked goods for which you are not sure, you can submit the recipes to [mda.cottagefood@state.mn.us](mailto:mda.cottagefood@state.mn.us) for review. Some examples of items that might require recipe review and/or water activity testing include banana bread and vegetable-filled pastries. If you can think about your recipes and look for ingredients that contain a lot of water, that should help you identify which recipes might be questionable or closer to a water activity of 0.85.

Ethnic variations of non-potentially hazardous food are allowed. Recipes controlling for water activity, i.e., baked goods, dried, jams, jellies, etc. would not need to be pre-approved by the MDA. Remember, non-potentially hazardous foods do not require refrigeration to prevent bacterial growth.

Fruit-based freezer jams are allowed under the cottage foods exemption. Fruit-based freezer jams are not frozen for food safety, but rather for quality. Fruit-based freezer jams are best kept frozen until sale. It is recommended to include on your label “Keep frozen or refrigerated for quality.”

Be cautious using ‘old family’ or ‘heirloom’ recipes for canning as they may not have been tested or based on science. Compare these recipes with a current tested recipe: compare ingredients and processing times. If they match, you can safely use the recipe. If they don’t, update your recipe or have your product and process analyzed.

Contact MDA in advance if you have any questions about a product before you begin production. Call (651) 201-6027 or email [mda.cottagefood@state.mn.us](mailto:mda.cottagefood@state.mn.us).

### Miscellaneous Issues

MFMA will maintain the approved NPH Foods List at [www.mfma.org](http://www.mfma.org). Please see that list for the most complete and up-to-date information. However, some foods don’t fit nicely into any food category, so following is the list of foods people have asked about to see if they fit under the cottage foods exemption.

Foods	Explanation
Frozen fruits and vegetables	If they are a ‘product of the farm’ with no additional ingredients, then they are already exempt from licensing under <a href="#">M.S. 28A.15</a> .
Honey or maple syrup	<p>Honey and maple syrup as whole foods are considered a ‘product of the farm,’ and thus already exempt from licensing under <a href="#">M.S. 28A.15</a>. However, if you flavor them, then they would be a cottage food.</p> <p>If an individual buys honey or maple syrup from other producers with the intent to resell them, they are no longer considered a ‘product of the farm’ or a ‘cottage food’ and the individual would be required to get a license from the MDA to resell.</p> <p>There are labeling requirements for honey products:</p>

Foods	Explanation
	<ul style="list-style-type: none"> <li>• include a statement: “Don’t feed to children less than 1 year of age.”</li> <li>• include your name and contact information</li> <li>• include the volume of product</li> <li>•</li> </ul>
Pet food	Pet food is not a cottage food and does require licensing through the MDA’s feed program. See <a href="http://www.mda.state.mn.us/licensing/licensetypes/feed/petfood.aspx">http://www.mda.state.mn.us/licensing/licensetypes/feed/petfood.aspx</a>

### Cottage Foods at Farmers’ Markets

Cottage foods can be made at home and sampled at farmers’ markets throughout Minnesota. The University of Minnesota Extension offers safe food sampling workshops. Contact Suzanne Driessen at [Driessen@umn.edu](mailto:Driessen@umn.edu).

Verification and compliance of the MN Cottage Foods Law are the sole responsibilities of the MDA. However, MFMA highly recommends that farmers’ market managers require and keep on file all of these types of certificates for their vendors, both as a good business practice for insurance; and as a service to the vendors, in case they misplace their copies.

### Product Liability Insurance

As a good business principle, cottage foods producers should consider buying product liability insurance. You should contact your homeowner’s insurance company before starting a cottage foods business at home. The law does not protect you from being sued if someone is injured while picking up product or is sickened by a food product they purchase from you. Minnesota Farmers’ Market Association offers a general and product liability insurance group policy to its members: [info@mfma.org](mailto:info@mfma.org).

### Public Access to Cottage Foods Producer Registration

Just as with all MDA permits, registrations and licenses, the following information is public information: name, address, date of issuance, type and number.

## Non-Compliance: Consequences and Reporting

The MDA (and its delegated authorities) are solely responsible for the enforcement of the MN Cottage Foods Producer Law. However, all of us in the cottage foods industry have a vested interest in making sure all producers comply with the law, follow food safety practices, and register with the MDA, if we want to continue to enjoy the provisions of the law.

### Consequences

MDA inspectors can at any time inspect a farmers’ market, community event or a home that is producing cottage foods. The inspectors will be looking for registration, sales of allowed products, proper labeling, and safe food handling practices. They will have paper copies of the training available along with registration forms, so those individuals who qualify and are not already registered will be able to register on site. Those selling non-exempt foods or refusing to register will be told to cease sales on-site or can obtain a valid retail food handler license if they meet the requirements for licensure. MDA prefers to educate and work cooperatively with those in the business of making and selling food, however, vendors failing to register and found to be operating after being informed of the requirements may be subject to penalties.

### Reporting Non-Compliances

You can report non-compliances to MDA, even anonymously, via phone or email.

MDA’s Dairy and Food Inspection Division’s Information Desk is available for questions or complaints on dairy, meat and food safety. Call (651) 201-6064, Monday through Friday, from 8 a.m. to 4:30 pm. After hours, you may call (651) 201-6027, leave a message, and someone will return your call.

If you prefer, you may use the online form found at this link, to register your complaint: <http://www.mda.state.mn.us/en/food/safety/foodcomplaint.aspx>

tate.mn.us/en/food/safety/foodcomplaint.aspx



MDA A-Z  
STAFF LISTING  
HOME

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711 TTY  
PARKING

Google Custom Search Search

ANIMALS + CHEMICALS + ENERGY + **FOOD** + FUNDING + LAND/WATER + LICENSING + PLANTS/PESTS +

Home > Food from Farm to Table > Food Safety > Food & Feed Quality Complaint Form

## Food & Feed Quality Complaint Form

The Dairy and Food Inspection Division's Information Desk is available for questions or complaints on dairy, meat and food safety. Call 651-201-6064, Monday through Friday, from 8 a.m. to 4:30 pm. After hours, you may call 651-201-6027, leave a message, and someone will return your call. If you prefer, you may use the form below to register your complaint.

The Dairy and Food Inspection Division, or delegated local health agency, has jurisdiction over grocery and convenience stores, bakeries, meat markets, wholesale food manufacturing plants, dairy processing plants, dairy farms, and milk hauling trucks. The [Minnesota Department of Health](#) or local health agency, licenses and inspects restaurants, cafes, and alcoholic beverage establishments. If a facility is not licensed by us, we will refer it to the proper local, state or federal agency that has jurisdiction.

If your complaint is a food emergency, please contact the State Duty Officer at 1-800-422-0798.

If you have a pesticide misuse complaint, please use the [Pesticide Misuse Complaint Form](#).

\* indicates required field

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### Complaint Information

Nature of Complaint

Date Found or Observed

Year	Month	Day
2000	January	13

## **M.S. 28A.152 Cottage Foods Exemption**

Subdivision 1. Licensing provisions applicability.

(a) The licensing provisions of sections [28A.01 to 28A.16](#) do not apply to the following:

(1) an individual who prepares and sells food that is not potentially hazardous food, as defined in [Minnesota Rules, part 4626.0020, subpart 62](#), if the following requirements are met:

(i) the prepared food offered for sale under this clause is labeled to accurately reflect the name and address of the individual preparing and selling the food, the date on which the food was prepared, and the ingredients and any possible allergens; and

(ii) the individual displays at the point of sale a clearly legible sign or placard stating: "These products are homemade and not subject to state inspection."; and

(2) an individual who prepares and sells home-processed and home-canned food products if the following requirements are met:

(i) the products are pickles, vegetables, or fruits having an equilibrium pH value of 4.6 or lower;

(ii) the products are home-processed and home-canned in Minnesota;

(iii) the individual displays at the point of sale a clearly legible sign or placard stating: "These canned goods are homemade and not subject to state inspection."; and

(iv) each container of the product sold or offered for sale under this clause is accurately labeled to provide the name and address of the individual who processed and canned the goods, the date on which the goods were processed and canned, and ingredients and any possible allergens.

(b) An individual who qualifies for an exemption under paragraph (a), clause (2), is also exempt from the provisions of sections [31.31 and 31.392](#).

Subd. 2. Direct sales to consumers.

(a) An individual qualifying for an exemption under subdivision 1 may sell the exempt food:

(1) directly to the ultimate consumer;

(2) at a community event or farmers' market; or

(3) directly from the individual's home to the consumer, to the extent allowed by local ordinance.

(b) If an exempt food product will be delivered to the ultimate consumer upon sale of the food product, the individual who prepared the food product must be the person who delivers the food product to the ultimate consumer.

(c) Food products exempt under subdivision 1, paragraph (a), clause (2), may not be sold outside of Minnesota.

(d) Food products exempt under subdivision 1 may be sold over the Internet but must be delivered directly to the ultimate consumer by the individual who prepared the food product. The statement "These products are homemade and not subject to state inspection." must be displayed on the Web site that offers the exempt foods for purchase.

Subd. 3. Limitation on sales. An individual selling exempt foods under this section is limited to total sales with gross receipts of \$18,000 or less in a calendar year.

Subd. 4. Registration. An individual who prepares and sells exempt food under subdivision 1 must register annually with the commissioner. The annual registration fee is \$50. An individual with \$5,000 or less in annual gross receipts from the sale of exempt food under this section is not required to pay the registration fee.

Subd. 5. Training.

(a) An individual with gross receipts between \$5,000 and \$18,000 in a calendar year from the sale of exempt food under this section must complete a safe food handling training course that is approved by the commissioner before registering under subdivision 4. The training shall not exceed eight hours and must be completed every three years while the individual is registered under subdivision 4.

(b) An individual with gross receipts of less than \$5,000 in a calendar year from the sale of exempt food under this section must satisfactorily complete an online course and exam as approved by the commissioner before registering under subdivision 4. The commissioner shall offer the online course and exam under this paragraph at no cost to the individual.

Subd. 6. Local ordinances. This section does not preempt the application of any business licensing requirement or sanitation, public health, or zoning ordinance of a political subdivision.

Subd. 7. Account established. A cottage foods account is created as a separate account in the agricultural fund in the state treasury for depositing money received by the commissioner under this section. Money in the account, including interest, is appropriated to the commissioner for purposes of this section.



# MINNESOTA COTTAGE FOODS LAW

Minnesota Statute 28A.152 Cottage Foods Exemption  
Effective July 1, 2015

## FACT SHEET NON-POTENTIALLY HAZARDOUS FOODS

As of July 1, 2015, individuals can sell non-potentially hazardous (NPH) foods made in their home kitchens, without a license (Minnesota Statute 28A.152). NPH foods are foods that do not support the rapid growth of bacteria that would make people sick when held outside of refrigerated temperatures: these are the types of foods the 2015 Minnesota Cottage Foods Law exempts from licensing. MFMA has worked with the Minnesota Department of Agriculture, the Minnesota Department of Health, and the University of Minnesota Extension Food Safety Team to compile this list.

If a food item is not on this list, you should assume it DOES require a license and you should contact your local Minnesota Department of Agriculture Food Inspector for more details. To find the contact information for your local MDA food inspector, click here: <http://gis.mda.state.mn.us/food> or call (651) 201-6027.

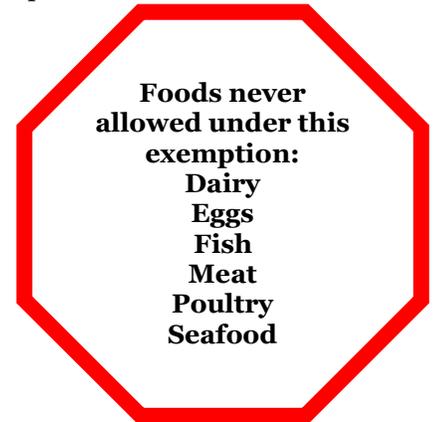
### LIST UPDATES

This list will be reviewed and updated as needed. When the list is updated, the revision date for this document will be changed and MFMA will send an email to everyone on our contacts list. To ensure that you receive these updates, please go to [www.mfma.org](http://www.mfma.org) and sign up for our e-list. **This list was last updated: March 15, 2016.**

### USING THIS LIST

For ease of use, this list is divided into Food Type categories. Each category lists three options: Allowed Foods, Not Allowed Foods, and Exceptions. All foods listed in the "Exceptions" column need extra information and we strongly recommend you contact the MDA to discuss the potential risks associated with the "Exceptions" foods.

1. Acid and acidified home-canned and home-processed foods
  - a. Fruits
  - b. Pickled
  - c. Vegetables
  - d. Fermented
  - e. Vinegar
  - f. Condiments
  - g. Ingredients
2. Baked
3. Candy and Confections
4. Dried, Dehydrated and Roasted
5. Icings, Frostings, Sugar Art
6. Jams, Jellies, Preserves, Fruit Butters



### PH REQUIREMENT

You actually have to test the pH of acidified foods. In order to do that, you need a pH meter and the two solutions 4 and 7. There are numerous kits available on the market; if you need help getting one, please contact MFMA at [info@mfma.org](mailto:info@mfma.org) or (320) 250-5087.

An acceptable way to test the pH on a batch of foods is to open and pH test one of the containers, 24 hours after processing it. Write that pH value down in your records, along with the recipe you used and the date and quantity of that batch. Write that date on your labels for that batch as well. For help with canning lessons, please contact Suzanne Driessen of the University of Minnesota Extension Food Safety Team at [driessen@umn.edu](mailto:driessen@umn.edu) or (320) 203-6057.

### LAB-TESTED RECIPES FOR THE ALLOWED FOODS

There are *hundreds* of lab-tested recipes available for the Allowed Foods in this list. Please see the Appendix at the end of this fact sheet. Additionally, if you have an acidified canning recipe that is not standardized to a tested recipe, there are labs that can test your recipe. Once tested, you can submit the recipe and test results to the MDA for inclusion under this exemption. Direct any specific cottage food product questions to [mda.cottagefood@state.mn.us](mailto:mda.cottagefood@state.mn.us) or 651-201-6027.

## 1. ACIDIFIED, HOME-CANNED AND HOME-PROCESSED FOODS

Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
Fruits (naturally acidic)	<p>Fruits that have an equilibrium pH value of 4.6 or lower and are heat treated to kill vegetative cells.</p> <p>Examples, including but not limited to:</p> <ul style="list-style-type: none"> <li>Apples</li> <li>Applesauce</li> <li>Apricots</li> <li>Berries</li> <li>Cherries</li> <li>Cranberry sauce</li> <li>Fruit based chutneys</li> <li>Fruit cider &amp; fruit juices (see exceptions)</li> <li>Fruit puree</li> <li>Fruit salsas</li> <li>Mixed fruit cocktail</li> <li>Peaches</li> <li>Pears</li> <li>Plums</li> <li>Rhubarb</li> </ul>	<ul style="list-style-type: none"> <li>Bananas</li> <li>Cantaloupes</li> <li>Coconuts</li> <li>Figs (non acidified)</li> <li>Mangoes, green cut (non acidified)</li> <li>Melons</li> <li>Watermelons</li> </ul>	<p><b>Apple cider:</b> apple cider may test within the allowed pH range of 4.6 or below BUT it is also susceptible to the growth of harmful bacteria and therefore should be pasteurized. Pasteurization requires a license. Please contact the MDA for more information at <a href="mailto:mda.cottagefood@state.mn.us">mda.cottagefood@state.mn.us</a> or 651-201-6027.</p> <p><b>Fruit ciders, fruit juices including tomato:</b> If final product meets the pH criteria and are canned they would be allowed. It is raw, uncanned and unpasteurized juice that would not be allowed because it requires refrigeration for safety at retail. Please contact the MDA for more information at <a href="mailto:mda.cottagefood@state.mn.us">mda.cottagefood@state.mn.us</a> or 651-201-6027.</p>
Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
Pickled Products	<p>Pickled products with an equilibrium pH value of 4.6 or lower and heat treated to kill vegetative cells.</p> <p>Examples, including but not limited to:</p> <ul style="list-style-type: none"> <li>Pickled asparagus</li> <li>Pickled beets</li> <li>Pickled cantaloupe</li> <li>Pickled carrots</li> <li>Pickled chow chow</li> <li>Pickled corn relish</li> <li>Pickled cucumber</li> <li>Pickled green beans (Dilly Beans)</li> <li>Pickled green tomatoes</li> <li>Pickled okra</li> <li>Pickled relish</li> <li>Pickled summer yellow squash</li> <li>Pickled three-bean salad</li> <li>Pickled watermelon rinds</li> <li>Pickled zucchini</li> <li>Pickles, sweet or dill</li> </ul>	<ul style="list-style-type: none"> <li>Pickled eggs</li> <li>Pickled fish</li> <li>Pickled meats</li> <li>Pickled seafood</li> </ul>	
Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
Vegetables	<p>Vegetables acidified that have an equilibrium pH value of 4.6 or lower and are heat treated to kill vegetative cells.</p>		<p>Bloody Mary mixes and vegetables juices may be allowed, depending on the recipe. If the final product meets the pH criteria and are canned they would be</p>

<b>1. ACIDIFIED, HOME-CANNED AND HOME-PROCESSED FOODS</b>			
<b>Food Types</b>	<b>ALLOWED</b>	<b>NOT-ALLOWED</b>	<b>EXCEPTIONS</b>
	Examples, including but not limited to: Minnesota Tomato Mixture* Tomatoes		allowed. It is raw, uncanned and unpasteurized juice that would not be allowed because it requires refrigeration for safety at retail. Please contact the MDA for more information at <a href="mailto:mda.cottagefood@state.mn.us">mda.cottagefood@state.mn.us</a> or 651-201-6027.
<b>Food Types</b>	<b>ALLOWED</b>	<b>NOT-ALLOWED</b>	<b>EXCEPTIONS</b>
Fermented Foods	Fermented fruit, vegetables, pickles, sauerkraut, that have an equilibrium pH value of 4.6 or lower and heat treated to kill vegetative cells.  Kim Chi Pickles Sauerkraut	Fermented products needing refrigeration  Kombucha: not allowed under the exemption because of the potential for alcohol production regulated by the Department of Public Safety	
<b>Food Types</b>	<b>ALLOWED</b>	<b>NOT-ALLOWED</b>	<b>EXCEPTIONS</b>
Vinegar	Vinegars Flavored vinegars	Mustard flavored vinegars with low acid ingredients	
<b>Food Types</b>	<b>ALLOWED</b>	<b>NOT-ALLOWED</b>	<b>EXCEPTIONS</b>
Condiments	Condiments, that have an equilibrium pH value of 4.6 or and heat treated to kill vegetative cells. Chutneys Horseradish Ketchup Mustard Pepper sauce Salsa, Chile Salsa, green tomato Salsa, tomato Salsa verde (tomatillos green salsa) Taco sauce	Fruit based chutneys with nuts  Pesto  Flavored oils with herbs, garlic, etc.	BBQ sauce
<b>Food Types</b>	<b>ALLOWED</b>	<b>NOT-ALLOWED</b>	<b>EXCEPTIONS</b>
Ingredients	Fruit toppings like peach, sweet cherry  Pie filling (thickened with ClearJel®): apple, blueberry, cherry, peach, green tomato  Lemon or lime curd	Pie fillings with tapioca or starch  Mole paste	

## 2. BAKED FOODS

Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
	Baked foods that do not require refrigeration, including but not limited to: Bars Biscuits, fruit-filled Biscotti Breads Cakes Cookies Cupcakes Fried or baked doughnuts Pastries Pies, fruit-filled Pretzels Quick breads Waffle cones	Custard filling, such as banana cream, pumpkin or squash pie, etc. Bison Meat Poultry Fish Seafood Non-baked dairy (butter, cheese, cream cheese, yogurt) Non-baked egg-containing products Pizza with tomato or cheese	Sweet or quick breads made with fresh fruit and vegetables like zucchini, pumpkins and bananas may be a potentially hazardous food. Product can be tested for water activity (see list of labs in Appendix) and then lab results can be submitted to MDA for approval consideration prior to production. Please contact the MDA for more information at <a href="mailto:mda.cottagefood@state.mn.us">mda.cottagefood@state.mn.us</a> or 651-201-6027.

## 3. CANDY AND CONFECTIONS

Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
Candy and Confections	Including but not limited to: Bon bons Brittle Candy Caramel apples Caramels Chocolate Chocolate, ground Chocolate-covered, non-perishable foods, such as nuts, dried fruits, marshmallows, pretzels Cotton candy Fudge Hard candy Marshmallows without eggs Popcorn balls Toffee	Marshmallows containing eggs Cream based filling Meat, fish, seafood, poultry filling	

## 4. DRIED, DEHYDRATED, ROASTED PRODUCTS

Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
Dried, Dehydrated, Roasted Products	Including but not limited to: Baking mixes Beans Coffee beans Fruit Fruit leathers Granola, cereals and trail mixes Herbs	Jerky: fish, meat, poultry, seafood, Prepared beverages: coffee, tea, lemonade, etc. Nut butters	

## 4. DRIED, DEHYDRATED, ROASTED PRODUCTS

Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
	Herb blends Nut mixes Pasta Popcorn Popcorn snacks Potato chips Seasoning salt Seeds like pumpkin, sunflower Tea (dried) Tree nuts and legumes, coated or uncoated Vegetable leathers like pumpkin or mixed vegetable and tomato Vegetable chips Vegetables Vegetarian-based soup mixes	Roasted vegetables, e.g., peppers, carrots, etc.	

## 5. ICINGS, FROSTINGS, SUGAR ART

Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
Icings, Frostings, Sugar Art	Including but not limited to: Icings, frosting (as long as they do NOT contain eggs, cream or cream cheese): Buttercream (no cream or milk) Gum paste Flat Fondant Fudge Glaze Sugar art items: Cake toppers Cupcake toppers Modeling chocolate figurines Other decor items Sugar flowers	Eggs, cream or cream cheese based, unless final product using these ingredients is documented as a non-potentially hazardous food.	Cream cheese based frosting, if tested and ruled to be non-potentially hazardous, and is kept cold for quality only, may be allowed. Submit recipe and product test to MDA Cottage Foods Team at <a href="mailto:mda.cottagefood@state.mn.us">mda.cottagefood@state.mn.us</a> .

## 6. JAMS, JELLIES, PRESERVES, FRUIT BUTTERS

Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
Fruit Butters, Jams, Jellies, Preserves,	Including but not limited to: Fruit butters Jams Jellies Preserves	Pumpkin butter  Addition of alcohol, flowers, flavorings like lavender, low acid ingredients	Non-tested recipes that add peppers, herbs, etc., will need to be tested (see list of labs in Appendix) and then submitted to MDA for approval consideration prior to production.

<b>REQUIREMENTS AT-A -GLANCE</b>				
<b>FOOD PRODUCED UNDER M.S. 28A.152</b>	<b>MAY</b>	<b>MUST</b>	<b>SHOULD</b>	<b>MAY NOT</b>
Produced in home kitchen	✓			
Home-canned Heat treated in a hot water bath or pressure canner		✓		
Acidified home-canned foods: Test pH of product	✓	✓		
Register with MDA		✓		
Carry product liability insurance			✓	
Sell at a farmers' market	✓			
Sell at a community event	✓			
Sell via the internet	✓			
Sell from the home	✓			
Sell to restaurants				✓
Sell to grocery stores				✓
Sell to other than ultimate consumer				✓
Use non-standard / non-tested recipes for acidified home-canned foods				✓
Label		✓		
Package	✓			
Place sign at point of sale stating: "These products (or canned goods) are homemade and not subject to state inspection."		✓		
Report income to IRS		✓		
<a href="#">Charge Sales Tax</a>	✓			
Require an inspection	✓*			
<a href="#">Sampling and food demo</a> M.S. 28A.151	✓			
MDA jurisdiction*		✓		
MDH jurisdiction**	✓**			

## **APPENDIX**

### **LAB-TESTED RECIPES RESOURCES**

- “Come and Bake It,” 21 tested recipes for icings, frostings. <http://texascottagefoodlaw.com/>
- Minnesota Tomato Mixture: <http://www.extension.umn.edu/food/food-safety/preserving/tomatoes-salsa/tomato-mixture>
- Relishes, pickled: <http://nchfp.uga.edu/how/relish.html>
- “So Easy To Preserve,” tested recipes from the University of Georgia. National Center for Home Food Preservation. <http://nchfp.uga.edu/index.html>

### **RECIPE-TESTING LABS**

You may choose a commercial testing lab that fits your needs. Pricing varies but average around \$70/test/per product.

- Minnesota Valley Testing Lab, (507) 354-8517; New Ulm
- R-tech Labs (a division of Land O'Lakes), (800) 328-9687; Arden Hills
- Commercial Labs in Wisconsin that test food products:  
[https://foodsafety.wisc.edu/business\\_food/files/Testing\\_Labs\\_AF\\_Aug15.doc](https://foodsafety.wisc.edu/business_food/files/Testing_Labs_AF_Aug15.doc)

### **REFERENCES**

- Approximate pH of Foods and Food Products, April 2007, US FDA/CFSAN; Bad Bug Book –pH Values of Various Foods, US FDA/CFSAN; retrieved from <http://www.fda.gov/Food/FoodborneIllnessContaminants/CausesOfIllnessBadBugBook/ucm122561.htm>
- National Center for Home Food Preservation. <http://nchfp.uga.edu/index.html>
- pH Values of Various Foods, Oregon State University Extension Service, SP 50-1001 February 2014. [http://extension.oregonstate.edu/fch/sites/default/files/documents/sp\\_50\\_1001\\_ph\\_values.pdf](http://extension.oregonstate.edu/fch/sites/default/files/documents/sp_50_1001_ph_values.pdf)
- Why Add Lemon Juice to Tomatoes and Salsa Before Canning? June 2012. North Dakota State University <http://www.ag.ndsu.edu/pubs/yf/foods/fn1396.pdf>



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## Cottage Food Law (FAQs)

The passage of the Cottage Food Law in Minnesota has changed sections of current legislation under MS 28A.15, specifically, subdivisions 9 and 10. This new law affects all persons selling food formally under 28A.15 subdivisions 9 and 10, and persons starting business on or after July 1, 2015.

### Q: What Changed?

A: All individuals shall register before selling exempt food regardless of the amount of food sold. This includes individuals who sold food prior to the enactment of the new law and individuals who start selling food after the enactment of the new law.

### Q: Is there a cost to registration or a limit on the amount of food I can sell?

A: You must pay a fee of \$50 if you sell more than \$5,000 but less than \$18,000 in a calendar year. If you sell less than \$5000 there is no fee. You are limited to \$18,000 dollars in food sales in any calendar year. If you sell more than \$18,000 you need a license. A calendar year is January 1st. through December 31st.

### Q: How do I calculate my food sales?

A: On the day you register your food sales are \$0. The next time you register you calculate your sales based on what you sold last year. This is an honor system, however MDA may look at your records and you are required to pay tax on your income. When you register you will need a social security number or Minnesota tax ID.

### Q: How long is my registration good for?

A: Your registration expires on December 31st. of the year it was issued.

### Q: Are there requirements I need to meet before registration?

A: Yes, you must take the MDA on line training, pass a test and certify you comply with local laws.

### Q: I am a certified food manager is this training acceptable?

A: No, while the food safety information received in that course is satisfactory, it does not cover the cottage food law requirements.

### Q: How do I register?

A: Go to the Minnesota Department of Agriculture Web site and click on the link for the registration form. Complete the form and attach the required information. Submit the form. MDA will send you the registration certificate by mail or e-mail. As an alternative you may visit MDA at 625 North Robert St. in

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St. Paul, or contact a local MDA Food inspector to help you complete the registration.  
(<http://gis.mda.state.mn.us/food/>)

**Q: What information will I need to provide to obtain registration?**

A: You must have documentation from your local jurisdiction (city or county) that you are not violating a local ordinance by selling and producing food from your home. You will need proof you have taken the training course offered on line by MDA and passed the test. You will also need information requested on the registration form including your social security number or MN tax ID number.

**Q: What happens if the city or county objects to me making or selling food in my home?**

A: MDA will reject or revoke your registration. MDA IS PROHIBITED FROM ISSUING A REGISTRATION UNLESS YOU COMPLY WITH LOCAL LAWS.

**Q: what food can I sell after being registered?**

A: You can only sell non-potentially hazardous foods, pickles, vegetables, or fruit with a pH of 4.6 or lower at a farmers market, community event or from your home, and you must be the producer of the food and sell it to the consumer of the food. This means any food you make you must personally sell and deliver.

**Q: Where can I sell food that I make?**

A: From your home, over the internet, at a farmer's market or community event.

**Q: Does the food need a label?**

A: Yes, you must label the food with your name, address, city, and zip code, a list of ingredients contained in the product including allergens. The allergen of concern are; milk, eggs, wheat, soy, nuts, fish, shellfish. For more information take the training course.

**Q: I'm concerned about someone knowing where I live. Can I use a post office box as an address?**

A: No you must use a physical address in case someone needs to contact you concerning the food. Your Physical address is required. You may provide additional contact information.

**Q: What other information must I provide the customer?**

A: You must post a notice at the point of sale including your web site should you sell on the internet as follows. These foods are homemade and not subject to state inspection.

**Q: What do I need to prove I am registered?**

A: Like a driver license you must show the registration when asked. Keep it with you when selling food. An inspector or market master may ask to see it. If the registration cannot be verified you will be asked to stop selling food. MDA offices are not open on weekends or holidays so the MDA's data base may not be available to confirm your registration, however inspections are conducted on weekends in some locations.

**Q: Can I use the post office to deliver products?**

A: No. Sales must be directly from the producer to the end consumer, not through an intermediary.

**Q: Can I register as a cottage food producer as an LLC?**

A: No. The cottage food producer registration is limited to individuals only and excludes businesses such as firms, partnerships, cooperatives, societies, associations, companies and corporations.

**Q: Can I register as a sole proprietorship?**

A: Yes. Individuals can register using their legal name as either an individual or a sole proprietorship. If you are registered as a sole proprietorship with the Minnesota Secretary of State you can also register a 'doing business as' (DBA) name. Both the legal name of the sole proprietorship and the DBA name are required on the cottage food producer registration application.

**Q: Can I have a Community Supported Agriculture model of distribution for products under the Cottage Food Producer Registration?**

A: Yes. Customers must come to your place of residence to pick up products or you, as the producer, must deliver them directly to customers. You may not leave products for customer pick up at a location other than your residence.

**Q: Do I need to register if I'm only selling food at a bake sale for an educational, charitable or religious organization?**

If the food for the bake sale is prepared onsite at the educational, charitable or religious organizations then you don't need to register. However, if the food is prepared in your home you would need to register and the bake sale would be considered a community event by MDA.

**Q: Will I be regularly inspected by the department if I register to sell cottage foods?**

The MDA does not intend to conduct routine regulatory inspections of homes where cottage foods are produced. However, if food sold by someone who is registered is suspected or confirmed to be a source of illness or injury, the department may investigate the location where the food was produced. Under Minnesota Law the department has the authority to enter at reasonable times any establishment where food is manufactured, processed, packed or held. Inspection and investigation activities would be limited to areas of the location where food is manufactured, processed, packed or held.

Inspections may occur at farmers' markets or community events to verify registration and that food is being sold in a manner consistent with Minnesota Food Law and Minnesota Consolidated Food Licensing Law.

**Q: If I'm registered as a Sole Proprietorship can I have employees that sell food on my behalf?**

You may register as a sole proprietorship and you may have employees that sell food on your behalf. Registration limits of \$5,000 and \$18,000 apply to the registered sole proprietorship and not to individual employees and the sole proprietorship is responsible for ensuring the sales by employees fall within the allowed limits. If registering as a sole proprietorship, the individual registering is responsible for completing the training and paying the registration fee associated with the registration. [Additional information on tax reporting requirements for sole proprietorships is available from the Department of Employment and Economic Development.](#) Sole proprietorships that have employees must register using a Minnesota Tax Identification Number.

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# COUNCIL WORKSESSION MEMO

3.4

Meeting Date	07-25-2016
Agenda Section	Council Discussion
Item Description	Discussion; Unmanned Aerial Device Ordinance
Submitted By	Scott Baumgartner, City Attorney

## **BACKGROUND INFORMATION**

Some the neighboring cities have been discussing the development of an ordinance regulating Unmanned Aerial Devices.

There is a potential for privacy issues related to the use of these devices, as well as various safety concerns. The FCC governs airspace and there are no clear regulations established by the FCC as of yet. It is slated for 2017 for them to establish such regulations.

An ordinance could be drafted to address privacy and safety concerns.

## **FINANCIAL IMPACT**

N/a

## **COUNCIL DIRECTION REQUESTED**

This agenda item is intended to be a general discussion to determine whether or not the City Council would like to pursue the development of an Unmanned Aerial Device Ordinance.

# UNMANNED AERIAL SYSTEMS

ORDINANCE  
DRAFT

CITY OF ANDOVER  
COUNTY OF ANOKA  
STATE OF MINNESOTA

ORDINANCE NO. 000

AN ORDINANCE REGULATING THE USE OF UNMANNED AIRCRAFTS.

THE CITY COUNCIL OF THE CITY OF ANDOVER  
DOES HEREBY ORDAIN AS FOLLOWS:

**CITY CODE TITLE 4: PUBLIC HEALTH AND SAFETY**

**THE USE OF UNMANNED AIRCRAFTS**

SECTION:

- 4-7-1: Purpose
- 4-7-2: Use
- 4-7-3: Definitions
- 4-7-4: Limitations of UAS Usage
- 4-7-5: Exemptions from Provisions
- 4-7-6: Information, Notices, Markings
- 4-7-7: Enforcement
- 4-7-8: Violation a Misdemeanor
- 4-7-9: Effective Date

4-7-1: **PURPOSE:** This Ordinance is enacted for the purpose, and with the intent, to control and regulate the use of private unmanned aircrafts also known as “drones” (rotary or fixed wing) from disturbing, disrupting, harassing, or endangering another person or property. This Ordinance is also enacted to control and direct the use of unmanned aircrafts while departments within the City of Andover are performing their official duties.

4-7-2 **USE:** This Ordinance shall be enforced for the use of both recreational and commercial use of unmanned aircrafts typically weighing less than 55 pounds including its payload. Public safety officials using unmanned aircrafts while performing their official duties or when directed by the Fire Chief/Emergency Manager are exempt from the provisions of this Ordinance.

4-7-3: **DEFINITIONS:**

1. AREA OF COMMAND: The physical space (land, water, air) that is under the control of a public safety official while performing their official duties.

2. AIRSPACE: The portion of the atmosphere directly above and around the land or water, used by aircraft or by earth based structures such as aerial platforms within the jurisdiction of the city.
3. CITY: The City of Andover, Anoka County, Minnesota.
4. UNMANNED AIRCRAFT (Also known as unmanned aerial vehicle (UAV), drone, quad-copter, multi-copter or unmanned fixed wing aircraft): An "aircraft" as defined by the FAA pursuant to 49 U.S.C. §40102(a)(6), including the flying portion of the system and all associated support equipment, power supply, control station, data links, telemetry, communications, cameras, video and navigation equipment necessary to operate the unmanned aircraft, flown by an operator via a ground control system, or autonomously through the use of an on-board computer, communication links, GPS and any other additional equipment necessary for the aircraft to operate safely.
5. OPERATE: Means to pilot, steer, direct, fly or manage a small Unmanned Aircraft through the air remotely. The term "operate" includes managing or initiating a computer system that automatically pilots, steers, directs, flies or manages a small Unmanned Aircraft .
6. PERSON: Includes an individual, partnership, corporation or any body of persons, whether incorporated or formed as an association or not.
7. REMOTE CONTROL: A device used to control the operation of an Unmanned Aircraft using radio signals from a distance.
8. ALTITUDE: The height of an Unmanned Aircraft as measured from mean sea level.
9. AUTONOMOUS SYSTEM: An Unmanned Aircraft that is able to decide its course of direction without human oversight, based off pre-determined waypoints set by the operator using latitude and longitude coordinates, allowing the Unmanned Aircraft to fly without the need for additional operator intervention.
10. PUBLIC EVENT: An event open to the public, or where members of the public are gathered, and occurring on public property or pursuant to City authority. Such events and locations include, but are not limited to, athletic fields, band stands, outdoor swimming areas, street festivals, parade routes, schools, school yards, places of worship, and City and county facilities.
11. DATA COLLECTION: The process of collecting digital imagery through the use of a camera or video recorder attached or connected to an Unmanned Aircraft.
12. PAYLOAD: Goods or materials carried by an Unmanned Aircraft.

4-7-4: **UNMANNED AERIAL SYSTEMS LIMITATIONS:**

- A. No person shall operate an Unmanned Aircraft in violation of local, state or federal rules or regulations.
- B. No person shall operate an Unmanned Aircraft within the City to endanger, harm, harass, spy, intimidate, trespass, peep or damage property, whether through the use of the aircraft itself or the payload it carries.
- C. No person shall operate an Unmanned Aircraft over a public event unless directed by the Fire Chief or his/her designee.
- D. No person shall operate an Unmanned Aircraft over private property without first obtaining permission from the owner.
- E. No person shall operate an Unmanned Aircraft above an area declared as an emergency scene or disaster area. A clear space of ½ mile will be immediately mandated over all emergency incidents. During a wildland fire, all Unmanned Aircraft shall be grounded until the incident is resolved so they do not endanger fire suppression air resources assisting to mitigate the incident.
- F. No person shall operate an Unmanned Aircraft within ½ mile of a police, fire or rescue operation such as a raid, tactical position, crowd control or scene investigation.
- G. No person shall knowingly operate an Unmanned Aircraft over critical infrastructure within the City as defined by the Fire Chief/Emergency Manager. These infrastructures include, but are not limited to, railroad tracks, gas plants, gas supply lines, public buildings, power stations and transmission lines, radio towers or other land areas defined as or containing critical infrastructures.
- H. No person shall operate an Unmanned Aircraft above Public Events without the prior authorization of the Fire Chief or his/her designee.
- I. No person shall operate an Unmanned Aircraft before sunrise and after sunset.
- J. No person shall operate an Unmanned Aircraft while under the influence of alcohol or other mood altering substances that could impair or affect the operator's ability to safely control the Unmanned Aircraft.
- K. No person shall operate an Unmanned Aircraft with payloads carrying explosive devices or weaponry including, but not limited to, firearms, gunnery, artillery, open flames, and similarly related items.

4-7-5: **INFORMATION, NOTICES AND MARKINGS:**

- A. Should an Unmanned Aircraft flight be approved to assist with the duties of public safety, the Incident Commander shall give approval and remain in contact with local airports, department of natural resources, and the department of transportation of their flight when possible.

4-7-6: **EXEMPTIONS FROM PROVISIONS:**

- A. Authorized emergency personnel, when acting in the performance of their duties, shall be exempt from the provisions of this Ordinance.
- B. Temporary exemptions from this Ordinance may be granted to local, state or federal law enforcement and emergency agencies.
- C. This Ordinance does not pertain to the use of toy aircrafts that are not designed for, and are incapable of, sustained flight of more than ten (10) minutes in duration.

4-7-7: **ENFORCEMENT:** Primary responsibility for enforcement of this Ordinance shall rest with the Anoka County Sheriff's Office and the Fire Chief or his/her designee. This, however, shall not preclude enforcement by other licensed peace officers.

- A. If a licensed law enforcement official or the Fire Chief determines that the operation of an Unmanned Aircraft is in violation of this Ordinance, OR the operation is hampering, disturbing, or threatening an area or operation, they reserve the right to ground or seize the Unmanned Aircraft.

4-7-8: **VIOLATION A MISDEMEANOR:** Any person violating any provision of this Ordinance shall be guilty of a misdemeanor as defined by state law and subject to the penalties therefore.

4-7-9: **EFFECTIVE DATE:** This Ordinance shall be in effect from and after the date of its passage and publication.

Adopted by the City Council of the City of Andover on this \_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF ANDOVER

ATTEST:

\_\_\_\_\_  
Julie Trude, Mayor

\_\_\_\_\_  
Michelle Hartner, Deputy City Clerk

# COUNCIL WORKSESSION MEMO

3.5

Meeting Date	07-25-2016
Agenda Section	Council Business/Discussion
Item Description	Discussion; Downtown Activity

## **BACKGROUND INFORMATION**

This item will be a regular Agenda Item for Council Worksessions during the spring/summer months (with the exception of August – which are designated for Budget discussions).

The item is to provide an opportunity for Council to have a general discussion on items related to the Downtown, such as security, events, etc.

Please remember that no action may be taken at a Worksession. Any discussion that develops into the need for formal Council action will need to be placed on a Regular or Special Meeting agenda.

## **FINANCIAL IMPACT**

N/A

## **COUNCIL DIRECTION REQUESTED**

General discussion only.