



Planning Commission Work Session
Anoka City Hall Committee Room
Tuesday, July 19, 2016
6:00PM

AGENDA

1. Discussion – Cottage Food Law & Home Occupations
2. Other Staff Updates

MEMORANDUM

To: Planning Commission
From: Chuck Darnell, Associate Planner
Subject: July 19, 2016 Work Session; Cottage Food Law & Home Occupations
Date: July 11, 2016

Background

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 Planning Commission 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 Planning Commission 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 Planning Commission 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.

Attachments

- 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

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
- Non-Minnesota Cottage Foods Producers
- Approved (Tested) Recipes

Miscellaneous Issues

- Cottage Foods at Farmers’ Markets
- Product Liability Insurance
- Public Access to Cottage Foods Producer Registration

Non-Compliance: Consequences and Reporting

- Consequences
- Reporting Non-Compliances

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.)

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 screenshot shows the Minnesota Department of Agriculture website. The main navigation bar includes categories like ANIMALS, CHEMICALS, ENERGY, FOOD, FUNDING, LAND/WATER, LICENSING, and PLANTS/RESTS. The 'FOOD' category is selected. The breadcrumb trail reads: Home > Licensing, Inspections, Certifications & Testing > Licensing > Cottage Food Law. The main heading is 'Cottage Food Producer Registration'. Below this, a red circle highlights a warning: 'If you operate a business out of your home you are not eligible to apply for this registration and will not be registered. Businesses include firms, partnerships, cooperatives, societies, associations, companies and corporations.' Another red circle highlights a link to 'Cottage Food Producer Registration Training (PDF: 603 KB / 34 Pages)'. A third red circle highlights a link to 'Cottage Food Producer Registration (PDF: 301 KB / 2 Pages)'. A red arrow points from the training link to the registration form link.

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 8th 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 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 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.

Miscellaneous Issues

MFMA will maintain the approved NPH Foods List at 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 M.S. 28A.15 .
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 M.S. 28A.15. 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"> • include a statement: “Don’t feed to children less than 1 year of age.” • include your name and contact information • include the volume of product •
Pet food	Pet food is not a cottage food and does require licensing through the MDA’s feed program. See http://www.mda.state.mn.us/licensing/licensetypes/feed/petfood.aspx

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.

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.

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>

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



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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

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 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

**Foods never
allowed under this
exemption:
Dairy
Eggs
Fish
Meat
Poultry
Seafood**

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 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 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 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"> Apples Applesauce Apricots Berries Cherries Cranberry sauce Fruit based chutneys Fruit cider & fruit juices (see exceptions) Fruit puree Fruit salsas Mixed fruit cocktail Peaches Pears Plums Rhubarb 	<ul style="list-style-type: none"> Bananas Cantaloupes Coconuts Figs (non acidified) Mangoes, green cut (non acidified) Melons Watermelons 	<p>Apple cider: 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 mda.cottagefood@state.mn.us or 651-201-6027.</p> <p>Fruit ciders, fruit juices including tomato: 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 mda.cottagefood@state.mn.us 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"> Pickled asparagus Pickled beets Pickled cantaloupe Pickled carrots Pickled chow chow Pickled corn relish Pickled cucumber Pickled green beans (Dilly Beans) Pickled green tomatoes Pickled okra Pickled relish Pickled summer yellow squash Pickled three-bean salad Pickled watermelon rinds Pickled zucchini Pickles, sweet or dill 	<ul style="list-style-type: none"> Pickled eggs Pickled fish Pickled meats Pickled seafood 	
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>

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

Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
	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 mda.cottagefood@state.mn.us or 651-201-6027.
Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
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	
Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
Vinegar	Vinegars Flavored vinegars	Mustard flavored vinegars with low acid ingredients	
Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
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
Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
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 mda.cottagefood@state.mn.us 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 mda.cottagefood@state.mn.us .

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.

REQUIREMENTS AT-A -GLANCE				
FOOD PRODUCED UNDER M.S. 28A.152	MAY	MUST	SHOULD	MAY NOT
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		✓		
Charge Sales Tax	✓			
Require an inspection	✓*			
Sampling and food demo 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

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
- 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

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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