



MINNESOTA COTTAGE FOODS LAW

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

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). Non-potentially hazardous (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, call (651) 201-6027.

LIST UPDATES

This list will be reviewed periodically 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 MFMA's website www.mfma.org and sign up for our elist. **This list was last updated: Feb. 26, 2019.**

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, 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

Never allowed under this exemption:

Dairy
Eggs
Fish
Meat
Poultry
Seafood

For additional updates, see Cottage Food Frequently Asked Question Blog, University of Minnesota Extension, <http://blog-cottage-food.extension.umn.edu/>.

pH REQUIREMENT

You actually have to test the pH of acidified and fermented foods. In order to do that, you will need a pH meter and calibration solutions. There are numerous kits available on the market. See *Buying and Purchasing and Using a pH Meter*, University of Wisconsin, https://foodsafety.wisc.edu/assets/pdf_files/What_is_pH.pdf.

For home-canned acidified products, test pH 24 hours after processing. For fermented products, test pH upon completion of the fermentation process. Record the pH value in your records, along with the recipe source, date and quantity of the batch. Download the University of Minnesota Extension's *pH Testing Record* <http://www.extension.umn.edu/food/food-safety/food-entrepreneurs/cottage-food-resource-hub/doc/canning-ph-testing.pdf>. On label of each jar, write the date you produced the product.

LAB-TESTED RECIPES FOR ACID, ACIDIFIED, FERMENTED FOODS

There are *hundreds* of lab-tested recipes available for the canned and fermented products in this list. Please see the Appendix at the end of this fact sheet. Additionally, if you have a recipe that is not standardized to a tested recipe, there are labs that can test your product. Once tested, you can submit the recipe and lab-tested pH and/or water activity results to the MDA for inclusion under this exemption. Please see the Appendix at the end of this fact sheet.

1. ACID, ACIDIFIED, HOME-CANNED AND HOME-PROCESSED			
Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
Fruits	<p>Fruits that have 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"> Apples Applesauce Apricots Berries Cherries Cranberry sauce Fruit based chutneys Fruit ciders Fruit juices Fruit puree Fruit salsas Mangoes 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>Fruit ciders, fruit juices, including tomato: If final products meet the pH criteria and are home-canned, they are an allowed cottage food product.</p> <p>Raw, uncanned and unpasteurized juice is not allowed because it requires refrigeration for safety requiring a license. Contact MDA at mda.cottagefood@state.mn.us or 651-201-6027.</p>
Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
Pickled Products	<p>Pickled products that have 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 green beans (Dilly Beans) Pickled green tomatoes Pickled okra Pickled relish Pickled summer yellow squash Pickled three-bean salad Pickled watermelon rinds Pickles, sweet or dill 	<ul style="list-style-type: none"> Pickled eggs Pickled fish Pickled meats Pickled seafood <p>Final product pH >4.6</p>	

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

Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
Vegetables	Vegetables acidified and have an equilibrium pH value of 4.6 or lower and heat-treated to kill vegetative cells. Examples, including but not limited to: Bloody Mary Mix Minnesota Tomato Mixture Tomatoes, acidified Tomato juice, acidified	Final product pH > 4.6 Pesto Home-canned low-acid foods: vegetables, meat, fish, soups, beans, etc.	
Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
Fermented Foods	Fermented fruit, vegetables, pickles, sauerkraut, which have an equilibrium pH value of ≤4.6. Kim Chi Pickles Sauerkraut Kefir soda, kombucha with alcohol content 0.05% or less.	Fermented products requiring refrigeration for food safety Fermented products with alcohol content >0.05%.	
Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
Vinegar	Vinegar and flavored vinegars, that have an equilibrium pH value of ≤4.6.	Mustard flavored vinegars with low acid ingredients	
Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
Condiments	Condiments, which have an equilibrium pH value of ≤4.6 and heat treated to kill vegetative cells. Barbeque sauce 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	Honey: Plain honey harvested from your land or land you rent is considered product of the farm and so excluded from any licensing. However, if you flavor with non-potentially hazardous ingredients like cinnamon or ground vanilla, it would be a cottage food.
Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
Ingredients	Fruit toppings like peach, sweet cherry Pie filling (thickened with ClearJel® or Thermflo®): apple, blueberry, cherry, peach, green tomato Lemon or lime curd	Pie fillings with tapioca, starch or flour Mole paste Pineapple or orange curd	

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 Pastries Pies, fruit-filled Pretzels Quick breads (See exceptions)	Custard filling such as banana cream, pumpkin, squash pie, cheesecake, etc. Fillings with: <ul style="list-style-type: none"> • Bison • Meat • Poultry • Fish • Seafood • Vegetables Non-baked dairy (butter, cheese, cream cheese, yogurt) Non-baked product containing raw eggs Final product decorated or garnished with cut fresh fruits, vegetable or meat Pizza with tomato or cheese Cake, brownies, bread baked in a jar Frozen doughs	Sweet or quick breads made with fresh fruit and vegetables like banana, pumpkin, zucchini may be a potentially hazardous food. Test these products for water activity and pH to verify non-potentially hazardous status by a commercial lab.
Beverages		Prepared, ready-to-eat beverages: coffee, tea, lemonade, etc.	

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	Chocolate-covered fresh berries, fresh pineapple, fresh melon Anything containing raw uncooked eggs Cream based filling	

	Fudge Hard candy Popcorn balls	Meat, fish, seafood, poultry, vegetable 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 Herb blends Nut mixes Pasta Popcorn Popcorn snacks Potato chips Seasoning salt Seeds like pumpkin, sunflower Soup mixes (dry) Tea (dry) Tree nuts and legumes, coated or uncoated Vegetable leathers like pumpkin or mixed vegetable and tomato Vegetable chips Vegetables Vegetarian-based soup mixes (dry)	Jerky: fish, meat, poultry, seafood Roasted vegetables, e.g. peppers, carrots, etc. Nut butters	

5. ICINGS, FROSTINGS, SUGAR ART

Food Types	ALLOWED	NOT-ALLOWED	EXCEPTIONS
Icings, Frostings, Sugar Art	Including but not limited to: icings, frosting Buttercream Gum paste Flat Fondant Fudge Glaze Royal icing with meringue powder Sugar art items: Cake toppers Cream cheese mints Cupcake toppers Modeling chocolate figurines Other decor items Sugar flowers	Eggs, cream, milk or cream cheese based; unless final product using these ingredients is documented as a non-potentially hazardous food	Dairy and cream cheese based frostings, lab tested, meeting the non-potentially hazardous parameters, are allowed. Cream cheese buttercream from the “Come and Bake It” book is allowed. See Tested Recipes Resources last page.

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 Fruit based freezer jams	Pumpkin, squash butters Addition of low acid ingredients like flowers, flavorings like lavender, etc. Final product pH > 4.6 or water activity >0.85	Non-tested recipes using low acid ingredients, e.g., peppers, mint, etc., need testing by a commercial lab for pH and water activity. (See list of labs in Appendix).

REQUIREMENTS AT-A -GLANCE

FOOD PRODUCED UNDER M.S. 28A.152	MAY	MUST	SHOULD	MAY NOT
Produced in home kitchen	✓			
Acid and acidified home-canned products heat treated in a hot water bath or an approved hot-fill-hold process		✓		
Acidified or fermented foods: Home test pH of each batch		✓		
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, if allowed by local zoning ordinance	✓			
Sell to restaurants				✓
Sell to grocery stores				✓
Sell to other than ultimate consumer				✓
Donate product to a charity fundraiser event (effective August 1, 2017)	✓			
Donate product to a food shelf or another food access point				✓
Label with name and complete address (street, city MN zip), date food was prepared, all ingredients and allergens		✓		
Package	✓			
Place sign at point of sale stating: "Products are homemade and not subject to inspection."		✓		
Display Minnesota Cottage Food Registration card @ point of sale		✓		
Report income to IRS		✓		
Charge Sales Tax See MN Department of Revenue, http://www.revenue.state.mn.us/Pages/search_results.aspx?sq=1&k=Taxable%20Food	✓	✓		
Request an inspection	✓			
Sampling and food demo M.S. 28A.151	✓			

APPENDIX

TESTED RECIPES RESOURCES

- University of Minnesota Extension Cottage Food Resource Hub. Find links and recommended resources to assist or grow your cottage food business. <https://extension.umn.edu/food-entrepreneurs/cottage-food-resource-hub>
- *Come and Bake It*. Tested recipes for icings and frostings. <https://texascottagefoodlaw.com/recipes>
- ****Come and Bake It 2: Pumpkin Spice Edition**. NOTE: Only some of the recipes in this edition are legal in Minnesota. See below for legal list. <https://texascottagefoodlaw.com/recipes>
- Minnesota Tomato Mixture: <https://extension.umn.edu/preserving-and-preparing/canning-minnesota-tomato-mixture>
- *So Easy to Preserve*. Tested recipes from the University of Georgia. National Center for Home Food Preservation. <https://setp.uga.edu/>.
- National Center for Home Food Preservation. <http://nchfp.uga.edu/>.
- University of Minnesota Extension. Food Preservation website. <https://extension.umn.edu/food-safety/preserving-and-preparing>

TESTING LABS

You may choose a commercial testing lab that fits your needs. Pricing varies but averages \$15/pH test and \$30/water activity test/per product.

- Market Fresh, (612-331-4050, Minneapolis)
- Minnesota Valley Testing Lab, (507) 354-8517; New Ulm
- R-tech Labs (a division of Land O'Lakes), (800) 328-9687; Arden Hills

REFERENCES

- *Approximate pH of Foods and Food Products*. April 2007. US FDA/CFSAN; US FDA/CFSAN. Retrieved from <http://www.vldhealth.org/pdf/environmentalPDF/foodPH2007.pdf>.
- *Local Food Resources*. Minnesota Institute for Sustainable Agriculture (MISA). <https://www.misa.umn.edu/resources/local-food-sales-resources>.
- National Center for Home Food Preservation. <http://nchfp.uga.edu/>.
- *Why Add Lemon Juice to Tomatoes and Salsa Before Canning?* June 2012. North Dakota State University <https://www.ag.ndsu.edu/publications/food-nutrition/why-add-lemon-juice-to-tomatoes-and-salsa-before-canning/fn1396.pdf>

****NOT** all recipes in the *Come and Bake It 2: Pumpkin Spice Edition* (2018) are legal in Minnesota, since Minnesota has a different standard for “non-potentially hazardous” foods. In Minnesota, for cottage food products, we use two parameters: pH ≤ 4.6 or a_w ≤ 0.85.

Come and Bake It 2: Pumpkin Spice Edition (2018)		
ALLOWED	NOT-ALLOWED	EXCEPTIONS
<ul style="list-style-type: none"> ● Mom's zucchini bread, p. 31 (pH 6.94, a_w 0.78) ● Pumpkin roll cake, p. 37 (pH 8.98, a_w 0.83) but the fill did not - p. 39 (pH 4.69, a_w 0.90) ● Pumpkin whoopie pies, p. 40 (pH 8.41, a_w 0.76) 	<ul style="list-style-type: none"> ● Sweet potato cinnamon bread, p. 29 (pH 5.51, a_w 0.87) ● Pumpkin scones, p. 33 (pH 8.15, a_w 0.87) ● Carrot cake, p. 35 (pH 8.59, a_w 0.86) ● Pumpkin roll filling, p. 39 (pH 4.69, a_w 0.90) ● Recipes pp. 66-85 	<p>There are recipes that barely meeting the water activity parameter and should be used with caution and followed exactly. Spoilage microorganisms like molds and yeast can be a concern but cease vitality at a_w < 0.60. http://www.labcell.</p>

Come and Bake It 2: Pumpkin Spice Edition (2018)		
ALLOWED	NOT-ALLOWED	EXCEPTIONS
<ul style="list-style-type: none"> • King Arthur's pumpkin cake bars, p. 42 (pH 8.40, a_w 0.81) • Pecan pie, p. 44, (pH 5.74, a_w 0.80) • Seedless raspberry filling, p. 46 (pH 2.95, a_w 0.97) • Pineapple filling, p. 48, (pH 3.54, a_w 0.97) • Strawberry filling, p. 50 (pH 3.43., a_w 0.97) • Blueberry filling, p. 52 (pH 3.32, a_w 0.98) • Blackberry filling, p. 53 (pH 3.84, a_w 0.96) • Salted caramel sauce, p. 55 (pH 5.07, a_w 0.72) • Maple cinnamon cream cheese frosting, p. 57 (pH 4.73, a_w 0.83) • Marshmallow cream cheese frosting, p. 58 (pH 4.61, a_w 0.83) • Cream cheese sour cream frosting, p. 59 (pH 4.61, a_w 0.83) • Orange cream cheese frosting, p. 60 (pH 4.45, a_w 0.83) • Fluffy boiled icing, p. 63 (pH 4.20, a_w 0.83) 	<ul style="list-style-type: none"> • Pumpkin pie made with canned pumpkin, p. 66 (4 brands all tested potentially hazardous) • Applesauce nut bread, p. 68 (pH 5.58, a_w 0.88) • Lemon zucchini bread, p. 70 (pH 5.76, a_w 0.88) • Italian meringue buttercream, p. 72 (pH 7.43, a_w 0.90) • Pumpkin cake, p. 74 (pH 8.95, a_w 0.92) • Orange pumpkin muffins, p. 76 (pH 8.34, a_w 0.90) • Pumpkin Whoopie Pies, p. 78 (pH 8.48, a_w 0.88) • Pumpkin layer cake, p. 80 (pH 8.50, a_w 0.91) • Pumpkin cake by Sally, p. 82 (pH 8.24, a_w 0.91) • Cake mix pumpkin cake with pumpkin puree, p. 84 (pH 6.50, a_w 0.88) • Pumpkin blondies, p. 85 (pH 6.67, a_w 0.91) 	<p>com/media/55373/aw%20chart%20labcell-email.pdf</p> <ul style="list-style-type: none"> • Pumpkin bread, p. 27, (pH 7.96, a_w 0.85) • Pumpkin cream cheese frosting, p. 56 (pH 4.75, a_w 0.84) • Cooked flour frosting (Whoopie pie filling, p. 61. (pH 6.02, a_w 0.84)