



# 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 elist. **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.

<b>1. ACIDIFIED, HOME-CANNED AND HOME-PROCESSED FOODS</b>			
<b>Food Types</b>	<b>ALLOWED</b>	<b>NOT-ALLOWED</b>	<b>EXCEPTIONS</b>
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>
<b>Food Types</b>	<b>ALLOWED</b>	<b>NOT-ALLOWED</b>	<b>EXCEPTIONS</b>
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>	
<b>Food Types</b>	<b>ALLOWED</b>	<b>NOT-ALLOWED</b>	<b>EXCEPTIONS</b>
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 <u>exemption because of the potential for alcohol production regulated by the Department of Public Safety</u>	
<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, frostings (as long as they do NOT contain egg 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-TESTING 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>