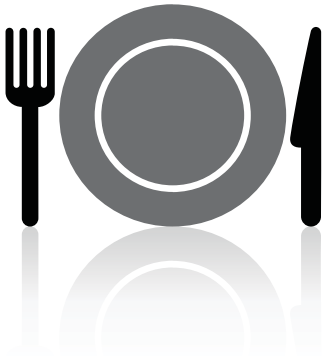
Starting a Food Business in Minnesota

2008



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Acronym Key:

DEED = Minnesota Department of Employment and Economic Development

DOLI = Minnesota Department of Labor and Industry

DPS = Minnesota Department of Public Safety

DPSV = Minnesota Department of Public Service

FDA = U.S. Food and Drug Administration

IRS = Internal Revenue Service

MDA = Minnesota Department of Agriculture

MDH = Minnesota Department of Health

MNDOR = Minnesota Department of Revenue

MNDOT = Minnesota Department of Transportation

MNSOS = Minnesota Secretary of State

MPCA = Minnesota Pollution Control Agency

SBA = Small Business Administration

Check Out this Really Great Business Reference:

A *Guide to Starting a Business in Minnesota*, available FREE of cost from the Minnesota Small Business Assistance Office.

Visit www.deed.state.mn.us/bizdev/start.html and click on A Guide to Starting a Business in Minnesota.

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Preface

Congratulations!

After serious consideration, you have decided to start a food business in Minnesota. Starting your new business will be an exciting adventure as well as a challenge.

To assist you with the many steps involved, this publication is designed to help those who are interested in starting a food service establishment, retail food business or a food manufacturing business in Minnesota. The publication's goal is to help new food business owners and employees understand the many regulatory requirements applicable to their business and produce and distribute safe, quality products to their customers. To achieve its goal, this publication identifies the various state agencies and units of local government responsible for regulation; provides helpful checklists focusing on regulations, skills assessment and "how to write a business plan"; and addresses specific license and permit requirements, inspections, local regulation, tax considerations and issues for employers.

Each section of this booklet is designed to meet two objectives. The first objective is to serve as a reference to the many regulations that must be followed for a food business. The second objective is to serve as a quick and convenient checklist for planning your new business.

Most food-related businesses will require intitial and continuing contact with several agencies and units of government. Contacting these entities in the early stages of planning your business is required prior to commencement of any construction. This will familiarize you with the requirements, cost, and timetables associated with starting a new food business in Minnesota. In addition, it is important that you understand the specific requirements and regulations mandated by the state and local agencies. Failing to comply with them can result in penalties, revocation of licenses, or even closure of your business.

Lastly, it is important for you to understand that this publication should not be used as a substitute for detailed reference to state laws and regulations, or as a substitute for competent legal advice. Legislative action and changes in administrative rules may cnage their requirements from time to time; therefore, you should contact the appropriate regulatory agency for the most up-to-date information. As with the start-up of any business, consultation with legal and accounting professionals is strongly recommended.

Starting a Food Business in Minnesota has been created by the Minnesota Department of Agriculture with assistance from the Minnesota Department of Health.

Chapter 1.

Preliminary Considerations

Starting a food business is a new and exciting venture. It can also be a risky one. It is a good idea to thoroughly consider everything you will need to successfully run a food business.

Through helpful checklists and a business plan outline, this section describes several important considerations that you should make before starting your food business. Completing these checklists and developing a business plan will help you realize what you may have left to learn and where you can go for assistance before starting your food business in Minnesota.

Why do you want to start a food business?

Before you start your own food business, you should ask yourself "why?" The following are designed to help you think about what it takes to start your own food business. Read each question carefully. If your answer is "yes," place a check by it. If you are unable to check many questions, you may need to make new plans, seek professional advice, or even reconsider your decision to start a food business.

Preliminary Considerations | *A Checklist*

Are You Prepared?

- ❑ Have you ever worked for a food business similar to the one you would like to start?
- ❑ Do you have any managerial experience?
- ❑ Have you had any business training in high school, college, or at a previous job?
- ❑ Do you know your vision/purpose and why you want this business?
- ❑ Are you willing to work long hours without knowing how much money you will earn?

Do You Have Enough Money?

- ❑ Do you know how much money you will need to get your food business started?
- ❑ Have you talked to a banker about your plans?
- ❑ Do you know how much of your own money you can put into your business?
- ❑ Do you know where you can borrow the rest of the money you will need?
- ❑ Do you know how much credit you can get from your suppliers?
- ❑ Add your anticipated salary and profits from your business together and subtract your business expenses. Are you willing to live on less than this amount in order to help your business grow?

Do You Need a Partner?

- ❑ Do you know both the good and bad points about having your own food business, having a partner, and incorporating your business?
- ❑ If necessary, do you have a partner in mind who could bring money and experience to your business?
- ❑ Will you be able to trust and get along with a partner?
- ❑ Have you talked to a lawyer about having a partner?

Do You Know Your Customers and Competitors

- ❑ Do most businesses in your community appear to be successful? Do you know why?
- ❑ Do you know if food businesses like yours are doing well in your community and the rest of the state/country?
- ❑ Is your product(s) currently available within the community?
- ❑ Do you know who your clientele are that will want to patronize your business?
- ❑ What differentiates your product (or service) from those already available?
- ❑ Does your community need a food business like yours? If not, have you thought about opening a different kind of business or starting it in another location?

After Completing Your Checklist

If you **did not check "*yes*"** to all of the above questions, you may have additional considerations and research to do. Go back to the checklist and make a note of each question you did not check. After you have written this list, develop and write down the goals that will assist you in completing the entire checklist. If you left the majority of the questions blank, you may want to seek professional advice or even reconsider your decision to start a food business.

If you **did check *"yes"*** to all of the questions, you should be ready to start planning for the future of your food business. To assist you with this enormous task, here is another helpful checklist to guide you through a second set of important steps in a starting a food business.

Before You Start A Food Business | *A Checklist*

The Building

- ❑ Have you found a good building for your food business?
- ❑ Will you have enough room for expansion?
- ❑ Can you afford to alter the space to your specifications?
- ❑ Is the building in a good location?
- ❑ Is the building accessible? (Handicap, parking lot, bus stop)
- ❑ Have you had a lawyer check the lease and zoning?

Equipment and Supplies

- ❑ Do you know what equipment and supplies you will need?
- ❑ How much will the equipment and supplies cost?
- ❑ Can you save some money by buying secondhand equipement in the proper condition?

The Merchandise

- ❑ What product(s) and/or service(s) do you plan to sell?
- ❑ Do you know how much or how many you plan to sell?
- ❑ Do you know how much or how many you will buy when opening your business?
- ❑ Have you found fair suppliers who will sell you what you need at a reasonable price?
- ❑ Have you compared prices and credit terms of various suppliers?
- ❑ Have customers demonstrated a desire for this product?

Your Records

- ❑ Have you created a system of records to keep track of your income and expenses?
- ❑ Have you developed a plan to keep track of your inventory so that you will always have enough on hand for your customers, but not more that you can sell?
- ❑ Have you developed a method to keep payroll records and take care of tax reports and payments?
- ❑ Do you know all of the various financial statements you will need to prepare throughout the year?
- ❑ Do you know a good accountant who will help you with your records and financial statements?
- ❑ Do you have a recall plan if something goes wrong with your product?

Food Business Licenses and Laws

- ❑ Do you know which licenses and permits you will need?
- ❑ Do you know the various business laws that you will have to obey?
- ❑ Do you know a good lawyer that you can use to help with legal matters?
- ❑ Have you checked with the state about registering your business name with the state?
- ❑ Have you obtained workers compensation insurance?

Protecting Your Business

- ❑ Have you made plans for protecting your store/business against theft of all kinds (i.e. shoplifting, robbery, burglary, and employee stealing?)
- ❑ Have you talked with an insurance agent to discuss the type(s) of insurance your business will need?
- ❑ Do you have a “Food Security” plan?

Advertising

- ❑ Have you decided how you will advertise (radio, newspapers, posters, TV, the internet)?
- ❑ Do you know where to get help for your ads?
- ❑ Do you know what advertising tactics other food businesses in your area use to get people to patronize them?

Buying A Previously Owned Building

- ❑ Have you made a list of your likes and dislikes about buying a building?
- ❑ Do you know the actual reason why the owner is selling the building?
- ❑ Has the building recently been inspected and approved by a regulatory agency?
- ❑ Have you compared the cost of buying versus building a new building?
- ❑ Will the owner of the building transfer the lease to you?
- ❑ Have you talked with other business owners in the area to see what they think of the food business you would like to start?
- ❑ Have you consulted a lawyer?

Buying

- ❑ Do you have a method for finding out what your customers want?
- ❑ Will your inventory plan have a built-in system to tell you when it is time to reorder supplies?
- ❑ Do you plan to buy most of your inventory from those that will want to help you succeed?
- ❑ Do you plan to participate in the WIC or Food Stamp program?

Selling

- ❑ Do you have a marketing plan?
- ❑ Do you know how to establish the price for each item you sell?
- ❑ Do you know how much your competitors charge for their products and services?
- ❑ Have you decided whether you will have sales clerks or provide self-service?
- ❑ Do you know how to get customers to buy?
- ❑ Have you thought about the qualities necessary for a good sales clerk?

Employees

- ❑ Do you know where to look for hired help?
- ❑ Do you know the salary requirements for your employee(s)?
- ❑ Do you know what kind of employee(s) your business will need?
- ❑ Do you have a plan for training your employees?

Credit For Your Customers

- ❑ Can your customers buy on credit?
- ❑ Do you know the good and bad points about joining a credit-card plan?

Other Important Questions

- ❑ Have you determined whether or not you could make more money working for someone else?
- ❑ Does your family support your decision to start a new food business?
- ❑ Do you know where to find the resources for new ideas and products?
- ❑ Have you sought assistance with your plans from the nearest Small Business Administration Office?

After Completing Your Checklist

Once again, if you **did not check *"yes"*** to all the questions above, you may need to consider doing more research. It's a good idea to go back to the checklist and identify those areas that you were not able to check. After you have written this list, develop and write down goals that you can accomplish to help you complete the entire checklist. Remember, starting a business involves taking risks; therefore, you've got to identify your needs and then go after them. Don't be afraid to ask for assistance from others who can help accomplish your goals.

Business Plan

Purpose

One of the first and most important steps in any business is the development of a business plan. A business plan describes the product or service offered by the business, defines customers, and describes financing needs.

A well-prepared business plan serves several purposes:

1. Helps determine the feasibility of starting the business.
2. Indicates the expected financial results.
3. Depicts the financial potential and its capital needs.
4. Serves as a management tool and guide for charting goals, future directions, and monitoring growth. It is the "blueprint" to keep on the right track.
5. Serves as a sales tool for raising capital from bankers or outside investors. It provides details on how the desired investment or loan will further the business's goals.
6. Provides the lender with detailed information on all aspects of the company's future projections.

The "Outline for Writing a Business Plan" has been provided courtesy of the University of St. Thomas' Small Business Development Center.

Outline for Writing a Business Plan

The following outline covers the most important points for a business plan. You may start with any section; however, it is advisable to complete one section before moving on to the next. Make sure that you address each section thoroughly, keeping in mind its recommended length. The length of a typical business plan should be between 25-35 pages to ensure that it is *concise*.

I. **Executive Summary (2-3 pages)**
   a. Vision Statement
   b. Description of your business concept and food business
   c. The opportunity and strategy
      i. The target market and projections
      ii. The competitive advantage
      iii. The Economics, profitability, and market potential
      iv. The team

II. **Table of Contents** (as needed; avoid excessive detail)

III. **The Industry, the Company, and its Product/service** (3-5 pages)
   a. The industry
   b. The food company/business
   c. The products and services
   d. Entry and growth strategy

IV. **Market Research and Analysis**
   a. Market Analysis (3-5 pages)
      i. Target market and its characteristics
      ii. Market share, trends, and growth potential
      iii. Projected market share
   b. Competitive Analysis(2-3 pages)
      i. Competitor's profiles
      ii. Product/service comparison
      iii. Projected market share
      iv. Competitive advantage
      v. Comparison of strengths andweaknesses

V. **Marketing Plan**
   a. Goals and objectives
   b. Marketing strategy
   c. Marketing tactics
      i. Pricing
      ii. Advertising and promotions
      iii. Sales and distribution channels
      iv. Service
   d. Evaluation

VI. **Design and Development** (1-2 pages)
   a. Development status and tasks
   b. Difficulties and risks
   c. Product improvement and new products
   d. Costs
   e. Proprietary issues
   f. Evaluation

VII. **Manufacturing and Operations Plan** (3-5 pages)
   a. Location
   b. Facilities and equipment
   c. Manufacturing process and durability
   d. Labor considerations
   e. Environmental and economic impact

VIII. **Management Team** (2-3 pages)
   a. Organization
   b. Key management personnel
   c. Ownership distribution and compensation
   d. Other investors
   e. Employment and other agreements
   f. Stock options
   g. Board of directors
   h. Other shareholder, rights and restrictions
   i. Professionsl advisors

IX. **Overall Schedule** (for implementation) (1-2 pages)

X. **Critical Risks and Assumptions** (1-2 pages)
   a. Summary of major problems to overcome
   b. Inevitable risks and problems
   c. Potential risks and problems
   d. Worst Case Scenarios

XI. **The Financial Plan** (as needed)
   a. Actual historical income statements and balance sheets
   b. Pro forma income statements
      i. Gross margins
      ii. Fixed and variable costs
      iii. Estimated amount of time needed to get to break even cash flow
   c. Pro forma balance sheets
   d. Pro forma cash flow analysis
   e. Break-even analysis
   f. Cost control
   g. Highlights

XII. **Request for Financing**
   a. How much and what kind of money do you need?
      i. Start-up expenses
      ii. Working capital to break-even
      iii. Personal living expenses
   b. When do you need the money?
   c. What will you do with the money?
   d. The structure of financing
   e. Capitalization of the company

XIII. Appendixes (not mandatory, but recommended)

a. Letters of intent (from potential customers)
b. Results of research
c. Management's resumes
d. Professional references
e. Pictures of product, service, building, etc.
f. Market studies, articles from trade journals

In addition to the *Outline for Writing a Business Plan*, information and assistance in preparing a business plan may be obtained free of charge from a variety of sources, including publications available from your local library, government or private small business assistance offices, the internet and business consultants. An example of one such publication is the book, A Guide to Starting a Small Business in Minnesota. For further questions regarding this publication, contact the Minnesota Small Business Assistance Office (*see directory*)

Professional Assistance

Before you start your new venture, it is a good ideal to seek some professional assistance. Here is a list of various professionals who can help you get started on the right track:

Accountant:
Identifies appropriate business forms, equipment, operating budgets, tax planning, and bookkeeping system; assists you with the filing of the necessary government forms to start a business.

Attorney:
Selects the type of business (i.e. sole proprietor, partnership, corporation), proper filing of local documents, interprets your rights and obligations as a businessperson.

Banker:
Gives financial expertise and services, and assists in opening a business bank account.

Insurance Agent/Broker:
Evaluates insurance needs to set up a program for business protection, such as general, fire, liability coverage, and worker's compensation.

Business Planner:
Advises on starting a food business and guides businesses on the rules and regulations; assists in developing and completing a formal business plan.

Summary for Starting a Food Business | *A Checklist*

- ❑ Using the previous checklists, access your personal skills for self-employment and commitment to the business you are starting.
- ❑ Critique your proposed business idea by evaluating your competitors for comparisons of profitability, start-up costs, etc.
- ❑ Obtain a copy of state rules, regulations and agencies.
- ❑ Research your market, its potential, and your competition by using local resources and business advisors.
- ❑ Consult an attorney and determine the appropriate business structure:
  • Sole Proprietorship • Corporation • Partnership • Limited Liability Company (LLC)
- ❑ Check local zoning requirements or restrictions *before* acquiring or remodeling property.
- ❑ Select a business name and register a Certificate of Assumed Name if necessary. Call the Secretary of State for preliminary approval and more information.
- ❑ Write a detailed business plan
- ❑ Contact the Internal Revenue Service (IRS) for a free *Tax Guide for Small Business* (Publication #334). Call and ask for a business Tax Kit (choose either partnership, corporation, or sole proprietorship) and *Tax Tips*, a newsletter for new businesses.
- ❑ Learn about business and sales tax workshops, which are often held free of charge. Call the Minnesota Department of Revenue's (MNDOR) sales tax information.
- ❑ Secure proper business licenses and permits as necessary by checking with the Minnesota Department of Agriculture (MDA), the Minnesota Department of Health (MDH), and county and local authorities.
- ❑ Investigate and choose your best financing options (i.e. banks, venture capital, community grants). For assistance, contact the Department of Employment and Economic Development (DEED).
- ❑ Establish a business bank account
- ❑ Obtain needed facilities (i.e. land, building, equipment) that will comply with state and local regulations.
- ❑ If you will be hiring employees, take the following steps:
  - Register for a *Federal Identification Number* by completing Form SS-4. Call the Internal Revenue Service (IRS)
  - Obtain a *Minnesota Taxpayer Identification Number* by calling the Minnesota Department of Revenue and completing form ABR.
  - Get Worker's Compensation Insurance by contacting your business insurance company. For assistance contact the Minnesota Department of Economic Security.
  - Obtain an Unemployment Insurance Account Number by contacting the Minnesota Department of Economic Security; request a copy of Unemployment Insurance Information for Employers.
- ❑ Develop logo and graphic identity for business cards, advertisement and other promotional materials that will match your intended image.
- ❑ Obtain adequate residential or commercial insurance coverage for the business.
- ❑ Establish and accurate and reliable accounting system.
- ❑ Select business advisors.
- ❑ Join and be actively involved in professional, business and trade community organizations that complement your business (i.e. Chamber of Commerce, local Rotary Club).

Code Compliance

ZONING | *Source: MN Stat. Ch. 462*

Every food service establishment or retail food business in Minnesota must comply with its local zoning ordinances and the state and local building, fire, electrical, food, and licensing codes. Therefore, it is crucial that you contact the local authorities in which your business or establishment will be located before you begin to actively plan for its future.

The local authorities will discuss with you the codes in which your business or establishment must comply. It is very important to comply with the codes because failure to do so will subject your food business to severe penalties such as paying costly fines or revocation of licenses.

Here is a listing of the codes that are discussed in this section:

- Zoning
- Building Code
- Fire Code
- Electrical
- Plumbing Code
- Plan Review
- Local Licensing
- Well Code

Zoning ordinances must be strictly followed by every food business in Minnesota. Zoning ordinances determine whether or not your particular business activities may be carried out at its chosen geographic location. For example, many zoning ordinances prohibit commercial establishments in residential areas. If you are planning to open a food business in a residential area with this type of ordinance, you may be prevented from doing so by the local zoning ordinance. Not complying with local and state zoning ordinances could result in severe penalties.

In addition, if you are planning to build or remodel your facility, a copy of your zoning permit needs to be reviewed by state and local agencies (along with blueprints) prior to construction.

One of the first steps in starting your new business should be contacting the zoning office of the city or county in which your food business will be located for information on zoning requirements.

BUILDING CODE | *Source: MN Stat. Ch 16B*

The building in which your food business will be located must comply with the State Building Code. The building code governs the construction, reconstruction, alteration, and repair of buildings and other structures for which the code is applicable. The code also provides basic and uniform performance standards; establishes reasonable safeguards for health, safety, welfare, comfort, and security; and provides guidelines for the use of modern methods, devices, materials, and techniques.

Some communities in Minnesota do not have building inspection programs; however, ***all*** Minnesota food businesses and establishments are required by statute to comply with the State Building Code and related local regulations for the safety of both their patrons and employees.

Contact the building official in the city or county in which your facility will be located to obtain information on the building codes and local ordinances which govern your type of food business and apply for the necessary building permits.

FIRE CODE

The building in which your food business will be located must comply with the State Fire Code and related local ordinances. Inspection of the facility by local and state fire inspectors is required. Your business will continue to be inspected on a regular basis to ensure the safety of your building, employees, and patrons. Failure to comply with the fire code may result in a recommendation by the fire inspectors to have your building repaired, altered, or even demolished in accordance with the directions contained in their orders.

Contact your local and state fire inspector for information on fire code compliance and inspection for your food business.

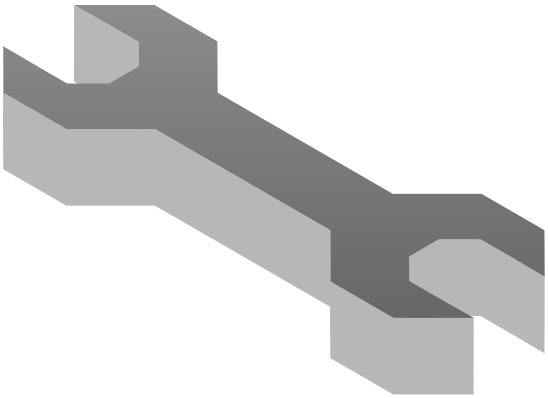
PLUMBING PLAN

The plumbing plan of every food business in Minnesota must comply with the State Plumbing Code. If you are planning to build a new food facility, you must have your plumbing plan's blueprints approved by the Minnesota Department of Labor and Industry (DOLI) at least 30 days prior to beginning construction of the facility. If you plan to use an existing building, the existing plumbing and any plumbing changes must also comply with the State Plumbing Code and be approved by the DOLI at least 30 days prior to opening a food business.

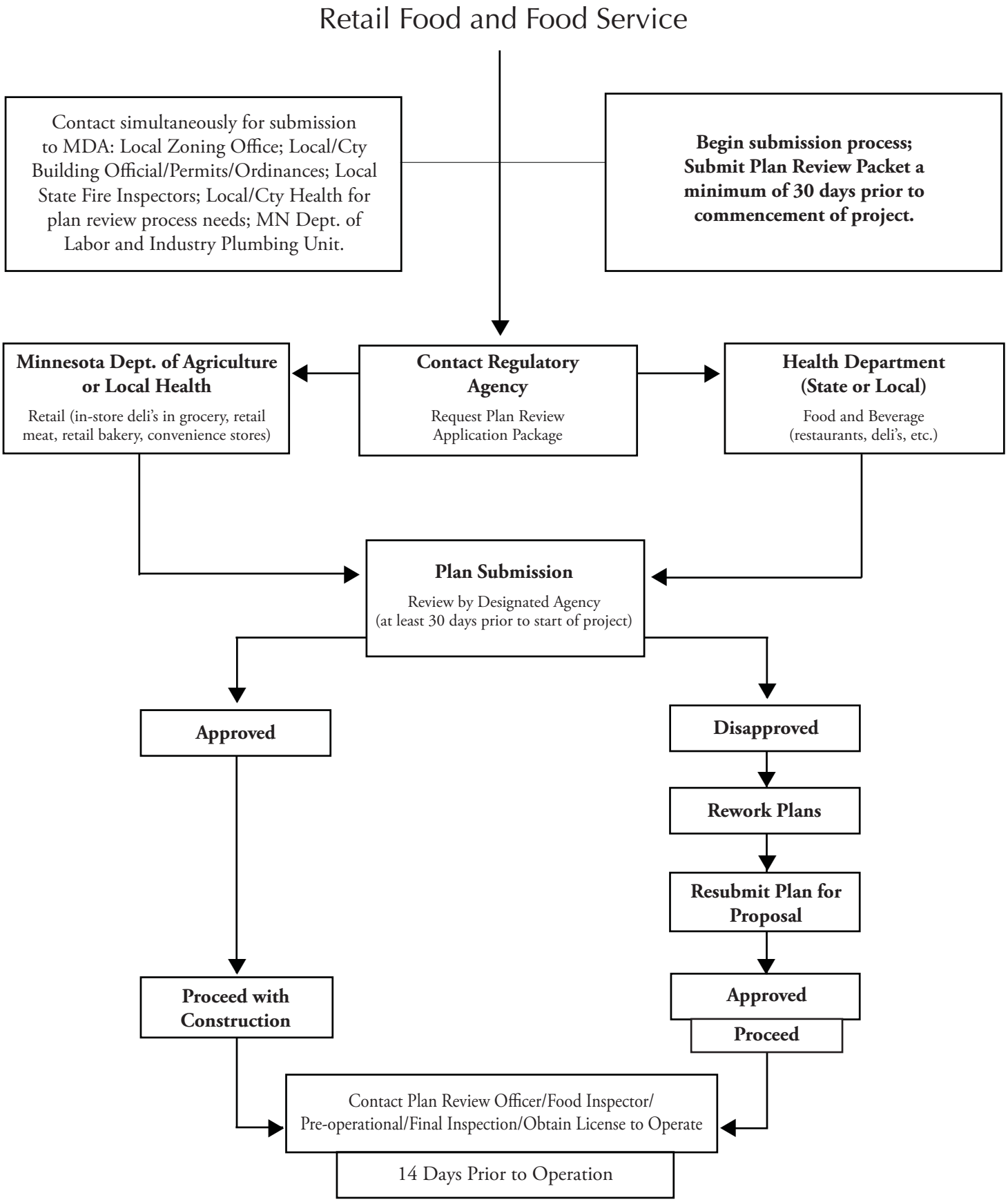
Because each business or establishment must follow its own specific requirements, it is a good idea to contact either the DOLI or your city/county clerk as soon as possible to discuss the codes and other regulations that pertain to your business.

Some municipalities have established a formal agreement with the DOLI to conduct their own individual plumbing plan reviews. All plumbing installation must be made by a licensed plumber.

Contact the Minnesota Department of Labor and Industry's Plumbing Unit for information about plumbing plan requirements and for a current list of cities that have a formal agreement to conduct their own individual plumbing plan reviews.



Plan Review


Retail Food and Food Service
Contact simultaneously for submission to MDA: Local Zoning Office; Local/Cty Building Official/Permits/Ordinances; Local State Fire Inspectors; Local/Cty Health for plan review process needs; MN Dept. of Labor and Industry Plumbing Unit.
Begin submission process; Submit Plan Review Packet a minimum of 30 days prior to commencement of project.
Minnesota Dept. of Agriculture or Local Health
Retail (in-store deli's in grocery, retail meat, retail bakery, convenience stores)
Contact Regulatory Agency
Request Plan Review Application Package
Health Department (State or Local)
Food and Beverage (restaurants, deli's, etc.)
Plan Submission
Review by Designated Agency (at least 30 days prior to start of project)
Approved
Disapproved
Rework Plans
Resubmit Plan for Proposal
Approved
Proceed
Proceed with Construction
Contact Plan Review Officer/Food Inspector/ Pre-operational/Final Inspection/Obtain License to Operate
14 Days Prior to Operation

Plan Review

After you have made the decision to start a new food business, one of your top priorities should be to create and submit a plan to review, to the state or local authorities. To assist with this important task, an outline has been developed. Following this outline will save you time, money, possible frustration, and most importantly, will reduce the potential for foodborne illnesses due to poor facility design.

The plan review process requires the submission of plans and specifications for approval by the Minnesota Department of Agriculture (MDA), Minnesota Department of Health (MDH), and local licensing authorities before starting construction or major remodeling* of a food establishment, or the conversion of an existing building to a food establishment. Failure to submit your plans for review before the given deadline may subject your food business to delay of licensure, delay of operation, or additional remodeling cost.

*Major remodeling means an addition to the physical facility or adding major equipment, either of which may also involve changes to the plumbing system. Major remodeling does not include redecoration, cosmetic refurbishing; altering seating design or reducing seating capacity.

OUTLINE

A. Submission of Plans and Specifications

a. Contact the MDA or MDH, and your local authorities for instructions, the application form and fee for the plan review.

b. Submit the following information to the MDA, MDH and your local licensing authorities at least 30 days prior to the start of construction;

i. An architectural blueprint of the facility, drawn to-scale, which includes the location for all areas within the food establishment (kitchen, storage, warewashing, dining, retail sales, rest room, garbage area).

ii. Location of equipment within the food establishment.

iii. Manufacturer and model numbers of equipment.

iv. Room interior finishes for ceilings, floors and walls.

v. A copy of menu or a written description of foods prepared and sold and a HACCP plan is required in M.R. 4626.

vi. Plan review application.

vii. Plan review fee.

► *Other information may be required by the regulatory authorities. They will review the plans and specifications to determine whether your food business meets the state or local regulations.*

► *A letter from the regulatory authority with comments on your blueprints stating required changes or additions will be given to the person submitting the plan.*

► *Once the plans and specifications are approved by the regulating authorities, the construction or remodeling of your business can begin. State law prohibits any deviation from the approved plans unless prior approval is given by the licensing authorities.*

B. Construction and Opening

a. Contact the MDA or MDH if you have any questions during construction, or to schedule a construction inspection to assure you are meeting compliance.

b. A pre-opening inspection is required before a license will be issued. Contact the licensing authority of either the MDA or MDH to schedule an inspection once construction is complete.

REMODELING

If you are planning to remodel any part of your food business, it is important to contact the MDA's Dairy and Food Inspection Division and/or the MDH, and the local authorities before you begin the physical reconstruction of the building. According to Minnesota Rule, a building's prepared plan must be submitted to the MDA for review and approval of construction or major remodeling of a retail food store, or when an existing structure is converted for use as a retail food store. Submission of plans 30 days prior to construction is recommended.

Failure to comply with these regulations will delay construction and/or the opening of your business. In addition, your company may receive a penalty or be required to have additional remodeling completed before opening.

If you are remodeling an existing licensed facility, contact your city, county, and state regulatory agencies for the remodeling procedures and requirements for your food business.

WATER SUPPLIES & SEWAGE DISPOSAL

By law, every food business must have a safe water supply that has been obtained from a municipal source or an approved private well.

- Wells must be constructed in compliance with the Minnesota Well Code.
- Surface water supplies (i.e. rivers or lakes) must have extensive treatment systems acceptable to the MDH and/or MDA.
- Septic systems may be used but must be designed, constructed, and operated in accordance with the Minnesota Pollution Control Agency (MPCA) Rule 7080.

The MDH reviews septic system plans, well plans and specifications as part of the required plan review process. If your anticipated water source is a private well, the water must meet water quality standards and the well must be constructed and located in compliance with the current well code. If the water source is a private well, it is imperative that the well and the water be evaluated prior to the start of any construction. If the well location, construction and water quality does not pass then a license cannot be issued.

LOCAL LICENSING

In addition to state licensing requirements, some cities and counties require certain kinds of businesses to be licensed for zoning or conditional use permits. In some cases, local licensing may take the form of a general business license involving no more than registration and fee payment. In other cases, it may involve compliance with local ordinances specific to a particular type of business such as a mobile food unit or a bed and breakfast establishment.

Larger cities like Minneapolis, St. Paul, and Duluth have separate licensing departments. Smaller cities usually rely on the city clerk to direct licensing activities. The county auditor generally directs the licensing of business activity outside city limits; therefore, it is crucial to call one or both of these departments early in your business planning to help avoid any possible confusion and delay.

As mentioned earlier the cities of St. Paul, Minneapolis, and Duluth each have their own licensing departments. Each city has its own publication listing the various licenses and permits required of its businesses. If your future food business will be located within one of these cities, contact them for further information about obtaining your free publication.

Publication: *Minneapolis City Licenses*, Department of Licensing and Consumer Services 612-673-2080
Publication: *St. Paul City Licenses*, License and Permit Division, 651-266-9090
Publication: *Duluth City Licenses*, City Clerk's Office, 218-730-5500

MINNESOTA FOOD CODE

The MDA and MDH worked together to revise food regulations and to develop uniform sanitation and food safety standards. This joint endeavor combined rules and regulations for food and beverage service establishments, retail food establishments, bakeries and vending establishments into one uniform regulation.

The new code included provisions addressing issues of employee and management knowledge and responsibilities and implementation of Hazard Analysis Critical Control Point (HACCP) principles for certain food processes or operations. Processes or operations that require HACCP include:

1. Smoking or curing food, except for smoking done for the purpose of imparting flavor only, and not as a part of the cooking process.
2. Using food additives or adding components, including vinegar, as a method to preserve food (rather than to enhance its flavor) or change food into a non-potentially hazardous food.
3. Using a reduce oxygen method of packaging food.
4. The following items also require a variance based on a HACCP Plan:
   a. use more that one tagged shellstock container at a time.
   b. deviate from required cooking times and temperatures for raw animal foods.
   c. Use of molluscan shellfish life support system display tanks to store and display shellfish that are offered for sale.

The regulation is based on the Food and Drug Administrations' 1995 Food Code, plus Minnesota amendments. The food code is found in Minnesota Rules Chapter 4626.

You can download the food code at www.mda.state.mn.us or order a copy from the Minnesota Book Store at 651-297-3000 (local) 1-800-657-3757 (outstate) 1-800-657-3706 (TTY).

FOOD MANAGER CERTIFICATION

A Certified Food Manger (CFM) is required in most Minnesota food establishments since July 1, 2000. The MDA and MDH will administer food manager certification. A person who applies to become a Certified Food Manager must have proof of successful completion of a food manager course and of passing a food manager certification exam. The applicant may take any course that covers food preparation and handling, sanitation and the prevention of foodborne illness, but only certain food manager certification exams will be accepted. After having met the required qualifications, a person seeking to become a state certified food manager must apply to the MDH using an application form available from the MDA or MDH, and most course providers.

Important Reminders About Code Compliance

- Contact your local zoning office for information about zoning requirements.
- Contact your local or county building official for information about the necessary permits, codes and ordinances which govern your type of food business.
- Contact your local and state fire inspectors for information on fire code compliance and inspection for your food business.
- Contact the Department of Labor and Industry, Plumbing Unit, for information about plumbing code requirements.
- Contact your city, county, and state regulatory agencies for information about plan reviews.
- If you are remodeling, contact your city, county, and state regulatory agencies for the remodeling procedures and applicable codes.

Chapter 2.

Retail Food Business

Starting a new retail food business is an exciting adventure that will involve careful planning. Retail food businesses are regulated primarily by the Minnesota Department of Agriculture (MDA). This section will discuss the MDA's regulations for the different types of retail food businesses, which are:

- Retail Food Establishments *(grocery store, convenience store, bakery)*
- Food Vending Machines

Retail food businesses may also sell nonfood items that are regulated by state agencies or units of local government other than the MDA. It is important that you read the "Related Issues" section that is located in the next section of this booklet. Here is a listing of the important regulations that are discussed in the "Related Issues" section:

Cigarettes/Cigarette Vending Machines	Quality Assurance Dating
Delivery Vehicles	Scanning Devices
Insurance	State and Local Sales Tax
Liquor Licenses	Underground Fuel Storage
Employment of Minors	Universal Product Code
Minnesota Clean Indoor Air Act	

Retail Food Establishments

DEFINITION

"Food Establishment" means an operation that: (1) stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, including a market, grocery store, convenience store, special event food stand, vending machine and vending location, and retail bakery (2) relinquishes possession of food to a consumer directly or indirectly through a delivery service, including the home delivery of grocery orders or restaurant takeout orders, and a delivery service that is provided by common carriers. A retail bakery and a vending company are considered a food establishment.

INTERNET FOOD SALES

Firms selling food solely on the INTERNET also must meet all the regulations found in the FOOD CODE and or 21 CFR 110 depending on the type of food and manner of sale of the food (retail or wholesale) and be licensed.

HOME BASED BUSINESS

Many people express a desire to conduct a food business out of their home or residence. In most cases a home will not comply with the rules and regulations for a retail food establishment. It is important to remember that a home based business is subject to all of the same rules and regulations as any other food businesss. If you are considering a home based business it is extremely important to contact your area food inspector and local zoning and planning administrator first.

REGULATORY AUTHORITY

The food handling of retail food establishments are regulated primarily by the MDA. Rules of the MDA governing the processing, handling, sale, and storage of food are found in *MN Rules 1520-1555 and Ch 4626*. In addition, the MDA has adopted applicable portions of the U.S. Food and Drug Administration's Code of Federal Regulations.

Who Do I Contact?

Food Business

	Minnesota Department of Agricultrue		DOLI	City/Cty, Local Municipality	MN Dept. of Revenue	MN Pollution Control Agency	MN Public Service
TYPE OF ESTABLISHMENT	Plan Review	License	Plumbing Plan	License/ Zoning	Tax I.D. No.		Wts. & Measures
Grocery Store/Retail Meat Mkt	✓	✓	✓	✓*	✓	✓	✓
Deli in Grocery Store	✓	✓	✓	✓*	✓		✓
Bakery (retail)	✓	✓	✓	✓*	✓	✓	✓
Convenience Store	✓	✓	✓	✓*	✓	✓	✓
Meat/Poultry Processor		✓	✓	✓	✓	✓	✓
Food Manufacturer		✓	✓	✓	✓	✓	✓
Vending Machine		✓		✓	✓		
Delivery Vehicles		✓		✓			
Fair Stand/Mobile Food Unit	✓	✓		✓	✓		✓
Wholesale Food Distributor		✓	✓	✓	✓	✓	✓

Insurance is advised for all food businesses.

Contact each agency EARLY for assistance.

* *in delegation area*

OBTAINING A LICENSE | *Source: MN Stat. Ch. 28A; MN Stat. Ch 176*

Before you are allowed to operate your retail food establishment, you will need a retail food handler's license. The license must be obtained before the store opens and must be conspicuously displayed on the premises. You must obtain a separate retail food handler's license for each place of business.

Before your retail food handler license can be issued, your facility must be inspected and approved by the MDA. The requirements your facility must meet in order to obtain a retail food handler license include the following:

- ❑ compliance with facility and equipment requirements per 4626
- ❑ sanitation standards
- ❑ food wholesomeness and safety
- ❑ accuracy of weights, counts, and measures
- ❑ labeling
- ❑ storage
- ❑ general food handling practices
- ❑ compliance with building, zoning and plumbing codes

If you plan to open a new facility, you must submit your facility's plumbing blueprints to the DOLI (*see code compliance*). In addition, your building plans must be reviewed by and approved 30 days prior to construction by the Minnesota Department of Agriculture (*see section on plan review*).

You must provide proof of workers' compensation insurance coverage if you have any paid employees, before your food handler's license will be issued. Failure to comply with any of these requirements within the time specification can result in a delay in license issuance, or suspension or revocation of your license once issued.

EXCEPTIONS TO LICENSING | *Source: MN Stat. Ch. 28A.01; MN Stat. Ch. 38, MN Stat 340A*

There are several statutory exceptions to the retail food handler license requirements. Some of the principal exceptions, enumerated in MN Stat. 28A.15, include:

1. Persons selling products of a farm or garden occupied and cultivated by them.
2. Persons not regularly engaged in the business of manufacturing and selling food who prepare food only on order of and for sale directly to the ultimate consumer.
3. Educational, charitable, or religious organizations not regularly engaged in the business of manufacturing, processing, or selling food at their established educational, charitable, or religious institutions.
4. Persons whose principal mode of business is licensed by the MDH. However, these businesses are subject to laws and regulations of the MDA as they relate to composition, standards of identity, adulteration, labeling, or misbranding of food.
5. Persons whose principal business is not food handling but who sell only ice manufactured and prepackaged by another, bottled or canned soft drinks, prepackaged candy or nuts at retail, or persons who for their own convenience or the convenience of their employees have available for rehydration and consumption on the premises such nonperishable items as dehydrated coffee, soup, hot chocolate or other dehydrated food or beverage.
6. Licensed pharmacies selling only food additives, food supplements, canned or prepackaged infant formula, ice manufactured and packaged by another, or nonperishable food items like bottled or canned soft drinks and prepackaged candy or nuts at retail.
7. Community event or farmer's market. An individual who prepares and sells food that is not potentially hazardous food, as defined in rules adopted under section 31.11, at a community event or farmers' market with gross receipts of $5,000 or less in a calendar year from prepared food items. If the food is not prepared in a kitchen that is licensed or inspected, the seller must post a visible sign or placard stating that: "These products are homemade and not subject to state inspection." Prepared foods sold under this subdivision must be labeled to accurately reflect the name and address of the person preparing and selling the foods. Certain home-processed and home-canned foods. (a) A person who receives less that $5,000 in gross receipts in a calendar year from the sale of home-

processed and home-canned food products and meets the requirements in clauses (1) to (5):
(1) the products are pickles, vegetables, or fruits having an equilibrium pH value of 4.6 or lower;
(2) the products are home-processed and home-canned in Minnesota;
(3) the products are sold or offered for sale at a community or social event or farmers' market in Minnesota;
(4) the seller displays at the point of sale a clearly legible sign or placard stating: "These canned goods are homemade and not subject to state inspection" unless the products were processed and canned in a kitchen that is licensed or inspected; and
(5) each container of the product sold or offered for sale under this exemption is accurately labeled to provide the name and address of the person who processed and canned the goods and the date on which the goods were processed and canned.
(b)A person who qualifies for an exemption under paragraph (a) is also exempt from the provisions of sections 31.31 and 31.392.

LENGTH OF DETERMINATION PROCESS

The length of the licensing determination process depends on whether or not your retail food establishment meets the requirements and standards of the Minnesota Department of Agriculture. In most cases, the determination process can be expected to take from 15 to 45 days. The length of the time required to obtain a food handler's license will vary. For instance, if you are taking over an existing licensed firm which has had few problems with facility and licensing requirements in the past, the new license may be obtained in about a week. All that is typically required would be to contact the MDA for an inspection, correct any deficiencies identified, complete the appropriate application and pay the corresponding fee.

Licensing Period Source: MN Stat. Ch. 28A
A retail food handler's license is issued for the period from July 1 through June 30. There is no provision for a partial year license or fee, and the license is not transferable.

LICENSE FEE | *Source: MN Stat. Ch. 28A*

The license is determined by the anticiped gross annual food sales for the first year of business. Renewals are based on the actual gross food sales from the previous year. You must acquire the license before opening your business. Failure to renew your food handlers license by its due date will subject your business to a late fee.

INSPECTIONS | *Source: MN Stat. Ch. 28A*

Your retail food establishment must be inspected and approved by the MDA before your food handler's license can be issued. Inspections will be conducted on a routine basis, or more frequently if your establishment has a history or improper food handling.

A written inspection report will be prepared by the inspector and given to you. If the inspector notes areas of noncompliance of regulations and issues specific orders to be followed, your firm will be given a reasonable time to comply. Failure to comply within the stated time may result in further regulatory action, that could lead to suspension or revocation of your license.

WHOLESALE PRODUCE DEALER LICENSE | *Source: MN Stat. 27.03 subd.* 4

Because perishable agricultural products cannot be repossessed in case of default, financial protection is provided to producers who are not described in MN Stat. Ch. 27.01, subd 8; and licensed wholesale produce dealers, including the retail merchant purchasing produce directly from farmers.

If there is a contract between a seller and a wholesale produce dealer to buy produce, the dealer must pay for the produce that is delivered to him or her at the time and in the manner specified in the contract with the seller. If the due date is not set by the contract, the wholesale produce dealer shall pay for the produce by ten days after delivery or taking possession of the produce. A payment received after the due date must include payment of 12 percent annual interest prorated for the number of days past the due date. Contact the Minnesota Department of Agriculture, Marketing Division at 651-201-6648.

Important Reminders for Starting a Retail Food Establishment

- Contact the Minnesota Department of Agriculture and local authorities for the specific regulations in which your building must comply.
- Review the "Related Issues" Section, which discusses the issues that need to be considered when starting a retail food market.
- Review the statutes and rules referenced in this section for the regulations your retail food market must follow. Visit your local library or the Minnesota Statutes' website to obtain this information.
- Submit plumbing blueprints to the DOLI and your Plan Review Application for review to the MDA. If constructing or remodeling, your blueprints must be submitted to the appropriate agency or local authorities before beginning construction.
- Have the building inspected by appropriate regulatory authorities.
- After inspection approval, complete the license application and pay the fee to obtain your retail food establishment's required license.
- If you have any questions, review this section or contact the MDA's Dairy and Food Inspection Division or your local clerk for more information on obtaining a retail food handler license.

Food Vending Machines

DEFINITION

Food vending machines are mechanical devices through which food is sold directly to the ultimate consumer.

REGULATORY AUTHORITY

The MDA's authority to regulate food vending machines is found in MN Stat. Ch. 28A. In addition to the statutory requirements, various rules govern the labeling and sale of food in vending machines. These rules are found throughout MN Rules Ch. 1550 and 4626. The U.S. Food and Drug Administration's "Good Manufacturing Practices," 21 Code of Federal Regulations 110, also apply to food dispensed from vending machines.

OBTAINING A LICENSE | *Source: MN Stat. Ch. 28A; MN Rules Ch. 4626*

Before offering food for sale through vending machines, you must obtain a retail food handler license from the MDA and pay a food vending machine inspection fee for each vending machine. A current inspection fee sticker must be posted on each machine. The machines and their location must comply with regulations pertaining to sanitary conditions, minimum and maximum temperatures, quality assurance labeling, and storage, service, and delivery of vending products. In addition, you must provide the MDA with a complete listing of the locations of your vending machines.

LENGTH OF DETERMINATION PROCESS | *Source: MN Stat. Ch. 28A.01*

The length of the determination process depends on whether or not your vending machines meet the requirements and standards of the MDA. Generally, the determination process lasts from seven to thirty days.

LICENSING PERIOD | *Source: MN Stat. Ch. 28A.01*

The license fee is determined by the anticipated gross annual food sales for the first year of business. Renewals are based on the actual gross food sales fromt he previous year. You must acquire the license before opening your business. Failure to renew your food handlers license by its due date will subject your business to a late fee.

LICENSE FEE | *Source: MN Stat. Ch. 28A.01*

An annual state inspection fee is imposed on each food vending machine except:

1 Food vending machines may be inspected by either a home rule charter or statutory city, or a county, but not both, and if by a home rule charter or statutory city, or a county they shall not be subject to the state inspection fee, but the home rule charter or statutory city, or the county may impose an inspection or license fee of no more than the state inspection fee. A home rule charter or statutory city or county that does not inspect food vending machines shall not impose a food vending machine inspection or license fee.

2 Vending machines dispensing only gum balls, hard candy, unsorted candies, or ice manufactured and packaged by another shall be exempt from the state inspection fee, but may be inspected by the state. A home rule charter or statutory city may impose by ordinance an inspection or license fee of no more than the state inspection fee for nonexempt machines on the vending machines described in this paragraph. A county may impose by ordinance an inspection or license fee of no more than the state inspection fee for nonexempt machines on the vending machines described in this paragraph which are not located in a home rule charter or statutory city.

3 Vending machines dispensing only bottled or canned soft drinks are exempt from the state, home rule charter or statutory city, county inspection fees, but may be inspected by the commissioner or the commissioner's designee.

INSPECTIONS

All food vending machines must be inspected by the Minnesota Department of Agriculture or by a city or county regulatory agency prior to operation to assure that the machines and their placement comply with regulatory requirements. Thereafter, inspections will be conducted on a routine basis, or more frequently if needed.

Following an inspection by the state, the inspector will prepare and present to you a written inspection report. If the inspector issues compliance orders, you must complete them within the designated time period. Failure to do so can result in further regulatory action leading to suspension or revocation of your license. Complying with the local and state regulations will help prevent additional inspections and suspension of your license. If your machines are inspected by a city or county inspector, they will be inspected according to the schedule and procedures of the inspecting entity.

Chapter 3.

Food and Beverage Service Establishments

This section will cover the regulations of food service establishments by defining and describing the major regulatory requirements, giving you helpful information on obtaining the proper licenses and discussing inspection processes for the different types of food service businesses, including:

Food and Beverage Services *(restaurants, deli's, cafes, catering services, alcoholic beverage services)*

Temporary Food Establishments *(food stands and mobile food units)*

Bed and Breakfasts

Food and beverage service establishments are regulated primarily by the Minnesota Department of Health (MDH). Referring to the "Primary Consideration" and "Related Issues" sections of this booklet will help answer common questions about starting a food and beverage service establishment in Minnesota.

Food and Beverage Service Establishments

DEFINITION | *Source: MN Stat. Ch. 157.15; Laws of MN, 1995 § 28A.01; and Laws of MN, 1995 § 245A*

A food and beverage service establishment is defined by statute as a building, structure, enclosure, or any part of a building structure or enclosure used as, maintained as, advertised as, or held out to be an operation that prepares, serves or otherwise provides food or beverages, or both, for human consumption.

One of the most popular types of food and beverage service establishments is a restaurant. A restaurant is defined by statute as a food and beverage service establishment, whether or not the establishment serves alcoholic beverages or nonalcoholic beverages and operates from a location for more that 21 days annually. In addition, delis, and boarding establishments are also classified as food and beverage establishments. All types of food and beverage service establishments must be properly licensed in order to serve food and beverages to the public. If resorts, hotels/motels, and campgrounds serve food and beverages, they are required to be licensed for food and beverage service.

Several statutory exceptions to food and beverage licensing requirements include:

- Interstate carriers under the supervision of the U.S. Department of Health and Human Services.
- Any building constructed and primarily used for religious worship.
- Any building owned, operated, and used by a college or university in accordance with health regulations promulgated by the college or university under Chapter 1.
- Any person, firm, or corporation whose principal mode of business is licensed under sections 28A.04 and 28A.05, is exempt at the premises from licensure as a food or beverage establishment; provided that the holding of any license pursuant to sections 28A.04 and 28A.05 shall not exempt any person, firm or corporation from the applicable provisions of this chapter or the rules of the state commissioner of health relating to food and beverage service establishments.
- Family daycare homes and group family daycare homes governed in sections 245A.
- Nonprofit senior citizen centers for the sale of home-baked goods.
- Food not prepared at an establishment and brought in by members of an organization for consumption by members at a potluck event.

CATERING SERVICES | *MN Stat. 157.15 and MN Rules 4625.2300 to 4625-7801*

A catering service is a food and beverage operation that prepares food from a licensed food service commercial kitchen. Catering services are subject to the same statutes and rules of the MDH that govern restaurants. In addition, catering service may be regulated by the city or county where they are located and are subject to local zoning ordinances. Persons who exclusively provide their services as cooks at the site or provide service to a private home are not required to be licensed by the MDH. Fees and licensing periods for catering services are subject to the same provisions as for all food service establishments. Contact the MDH for further information.

REGULATORY AUTHORITY | *MN Stat. 157.15 and MN Rules 4625, 4626*

Before your food and beverage establishment can be opened for business, it must pass inspection and obtain required licenses. The requirements for licensure and operation of a restaurant are found in *MN Stat. Ch. 157* and *MN Rules Ch. 4625.* In addition to state regulation, units of local government may regulate food and beverage service establishments. You should contact the MDH or the licensing authorities of the city or county where your establishment is located to acquire information about regulations or ordinances that apply to your business.

OBTAINING A LICENSE

After your food and beverage service establishment has been approved and paid its fee, the MDH will issue you an operator's license. In certain cases, the MDH may delegate its licensing authority to your city or county health service agency. If this happens, you will work with the local agency instead of the state in obtaining your food and beverage operator's license. There may be slight differences in the price of the license fees charged by the local agency and the MDH, but the requirements for licensing and criteria in which inspections are made are still very similar.

LENGTH OF DETERMINATION PROCESS

The length of time required to obtain an operator's license will vary. For instance, if you are taking over an existing licensed restaurant operation which has had few problems with licensing requirements in the past, the new license may be obtained in about a week. All that is typically required would be to contact the MDH to complete the appropriate application and pay the corresponding fee.

If you are constructing a new restaurant, the length of time to obtain a license will be much longer because you must submit both the plumbing blueprints and a plan review of your facility to the MDH and DOLI. These plans and specifications covering the construction of your restaurant and equipment must be reviewed and approved by the MDH and DOLI at least *30 days prior to* the start of construction. Failure to comply with these regulations will delay your establishment's construction and/or opening. In addition, your establishment may be required to have additional remodeling. To avoid delay and additional licensing costs, it is crucial to have your plans submitted and approved 30 days prior to the start of construction.

After construction is completed, a final inspection must be made. When the facility has met all requirements and has been approved, the MDH will accept a license application and fee and will issue a food and beverage operator's license. *Note: you must include proof of worker's compensation insurance for your business in the application. Failure to include this information will delay the opening of your restaurant.*

LICENSING PERIOD | *Source: MN Rules Ch. 4625*

A restaurant license is issued for one calendar year (from January 1 to December 31). A license obtained during any part of the calendar year expires on December 31 of that year. There is no provision for a partial year license fee, and the license is not transferable.

Who Do I Contact?

Food & Beverage Service Establishments

	Minnesota Department of Health		DOLI	City/County/Local Municipality		MN Dept. of Revenue	Fire Marshall State or Local
TYPE OF FOOD SERVICE	Plan Review	License	Plumbing Plan	License	Zoning	Tax I.D. No.	
Cafe	✓	✓	✓	✓	✓	✓	✓
Restaurant	✓	✓	✓	✓	✓	✓	✓
Bars and Lounges	✓	✓	✓	✓	✓	✓	✓
Bed and Breakfast	✓	✓	✓	✓	✓	✓	✓
Hotel/Motel	✓	✓	✓	✓	✓	✓	✓
Resort	✓	✓	✓	✓	✓	✓	✓
Deli	✓	✓	✓	✓	✓	✓	✓
Conference Center	✓	✓	✓	✓	✓	✓	✓
Caterer	✓	✓	✓	✓	✓	✓	✓
Golf Course	✓	✓	✓	✓	✓	✓	✓
Cafeteria	✓	✓	✓	✓	✓	✓	✓
Coffee Shop	✓	✓	✓	✓	✓	✓	✓
Clubs (VFW, American Legion)	✓	✓	✓	✓	✓	✓	✓

Insurance is advised for all food businesses.

Contact each agency EARLY for assistance.

INSPECTIONS | *Source: MN Stat. Ch. 157.15*

The MDH is required by statute to inspect establishments with a frequency based on the degree of health risk to the public. For inspection purposes, each restaurant must be identified as being either a high risk, medium-risk, or low-risk food service establishment. Here are the definitions for the three levels of food service establishments:

1. **High-risk food** service establishments serve potentially hazardous foods requiring extensive processing on the premises, including manual handling, cooling, reheating, or holding for service; prepare foods several hours or days before service; serve menu items that epidemiological experience has demonstrated to be common vehicles of food-borne illness; have a public swimming pool; or draw drinking water from a surface water supply. All high-risk food service establishments must be inspected at least once a year.
2. **Medium-risk food** service establishments serve potentially hazardous foods, but with minimal holding between preparation and service; serve foods that require extensive handling, such as baked goods and pizzas followed by a heat treatment. All medium-risk establishments must be inspected at least once every 18 months.
3. **Low-risk food** service establishments are establishments like hotels, motels, lodging establishment, or resorts that are not a high-risk or a medium-risk establishments. Low-risk food service establishments are identified as such for inspection purposes. All low-risk establishments must be inspected at least once every two years.

Risk exceptions: mobile food units, seasonal permanent and seasonal temporary food stands, food carts, and special event food stands are not inspected on an established schedule and therefore are not defined as high-risk, medium-risk, or low-risk establishments.

Even though each level of food service establishment is required to be inspected at least in accordance to the frequency established in statute, the MDH or local municipality has the authority to inspect your establishment at a greater frequency than required by regulation. If your establishment does not comply with state or local health regulations upon inspection, it is likely that it will be inspected more frequently.

The MDH may delegate the authority to perform inspections to a city or county health services agency. Inspection criteria are established by statute and by rules of the MDH and cover items such as food handling, sanitation, equipment, lighting, ventilation, plumbing, etc. Following an inspection, the inspector may issue orders for compliance with health regulations. Failure to comply with these orders within the time specification could result in fines, and/or suspension or revocation of your license or closure of your business.

Important Reminders for Starting a Food & Beverage Establishment

- ► Contact the MDH and local authorities for information on the regulations (codes, ordinances, plan reviews, etc.) required for your facility.
- ► Review the "Related Issues" section of this book that highlights important issues to consider when starting a food and beverage establishment.
- ► Review the statutes referenced in this section or visit your local library or the Minnesota Statutes' Website for a description of the regulations your establishment must follow.
- ► Submit blueprints to the MDH for review. If constructing or remodeling, submit your blueprints to the MDH or local authorities 30 days prior (recommended) to the start of construction.
- ► Have the establishment inspected by the proper regulatory authority.
- ► After approval of inspection, complete the application and pay the fee to obtain the required food and beverage establishment's license.
- ► If you have any questions review this section or contact the MDH's Environmental Health Services (651-215-0870) or your local agency.

Temporary Food Establishments

DEFINITION | *Source: MN Stat. Ch. 157.15, MN Rules Ch. 4626*

A temporary food service operation is an establishment that prepares or sells prepared foods or beverages on-site for direct sale to the consumer. Examples of a temporary food service are: mobile food units; seasonal, permanent, or temporary food stands; special event food stands; and food carts.

Food Cart.
"Food cart" means a food and beverage service establishment that is a nonmotorized vehicle self-propelled by the operator.

Mobile Food Unit.
"Mobile food unit" means a food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered, operating no more than 21 days annually at any one place or is operated in conjunction with a permanent business licensed under this chapter or chapter 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.

Seasonal Permanent Food Stand.
"Seasonal permanent food stand" means a food and beverage service establishment which is a permanent food service stand or building, but which operates no more than 21 days annually.

Seasonal Temporary Food Stand.
"Seasonal temporary food stand" means a food and beverage service establishment that is a food stand which is disassembled and moved from location to location, but which operates no more than 21 days annually at any one location.

Special Event Food Stand.
"Special event food stand" means a food and beverage service establishment which is used in conjunction with celebrations and special events, and which operates no more than three times annually for no more than ten total days.

REGULATORY AUTHORITY | *Source: MN Stat. Ch. 157.15, Ch. 28A.01; MN Rules Ch. 4626*

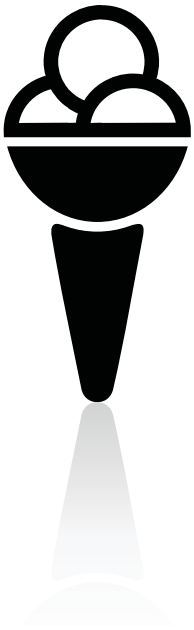
The Minnesota Department of Health considers most temporary food operations as restaurants; however, it may restrict the types of food being sold. As a result, most temporary food operations must comply with the same Minnesota Statutes and Rules that govern restaurants. In addition to these state regulations, your operation may be regulated by the city or county in which it is located. Generally, these regulations will involve compliance with zoning ordinances, sanitation and/or privilege license requirements.

If your temporary food operation will be located at the state or county fair, it will be regulated by the fair's governing board. In addition to the fair board's regulations, your operation must comply with the Minnesota Food Code, and all other applicable codes, including electrial codes.

OBTAINING A LICENSE

To obtain a temporary food service operator's license, your establishment must first comply with the Minnesota Food Code. The license will be issued by the MDH or MDA upon approval of inspection, acceptance of application, and payment of license fee. In addition, a plan review application and fees, is also required for a mobile food unit, a food cart, and a seasonal permanent food stand. The MDH has the authority to delegate its licensing responsibilities to a city or county health services agency. When the MDH delegates the authority to a local agency, you will work with the local agency instead of the state in obtaining your operator's license. Plumbing plans may still need to be reviewed by the DOLI.

The following is a list of licensing responsibilities:



Minnesota Dept of Agriculture

1. Candy Floss
2. Popcorn
3. Caramel Corn
4. Carameled Apples
5. Candy Manufacturing
6. Bakery Manufacturing
7. Fruit Concessions
8. Ice Cream Bars (wrapped)
9. Sno Cones
10. Retail Food Sales (prepackages meats, fruit, etc.)

Minnesota Dept of Health

1. Beverage Concessions (Soft Drinks and Beer)
2. Ice Cream Dipping
3. Ice Milk
4. Food Service Concessions (Sandwiches and/or meals)

In some municipalities, a license may be required from the city or county where your establishment is located, in addition to the state issued license. If your establishment is located at the state or county fair, you may need to obtain a license from the fair's governing board.

LENGTH OF DETERMINATION PROCESS

The length of time required to obtain your temporary food operator license will vary depending upon your particular situation. By contacting the government agency that will be issuing the license, it can provide you with an estimated time period.

LICENSING PERIOD | *Source: MN Stat. 28A.01*

A temporary food operator's license may be issued for one fiscal year *(from April 1 to March 31)* or for a specific event or period of time from MDA or from MDH for one calendar year *(from January 1 to December 31)*. There is no provision for a partial year license fee, and the license is not transferable.

INSPECTIONS

Temporary food operation inspections are performed by the Minnesota Department of Health (MDH) and/or the Minnesota Department of Agriculture (MDA). The MDH may delegate authority to perform inspections to a local community health services agency or to the MDA's Dairy and Food Inspection Division. In those cases, the local agency or MDA will perform the inspection, applying the rules and standards of the MDH.

Inspection criteria are established by statute and by the Minnesota Food Code. The criteria covers items such as food handling, sanitation, equipment, lighting, ventilation and plumbing. Following an inspection, the inspector may issue orders for compliance with health regulations if your establishment does not meet the inspection criteria. Failure to comply with the inspector's orders within the specified time could result in fines and/or suspension, revocation of your license, or closure of business.

Important Reminders for Starting a Temporary Food Operation

- Contact the MDH and local authorities for information on the specific regulations i.e. codes, ordinances, in which your building must comply.
- Review the "Related Issues" section of this book which discusses the many important issues to consider when starting a temporary food operation.
- Review the referenced statutes to acquire a description of the regulations your temporary food operation must follow. Visit your local library or the Minnesota Statutes' website.
- Submit blueprints to the MDH or local authorities. If constructing or remodeling, blueprints must be received 30 days prior to the start of construction.
- Get the operation inspected by the appropriate regulatory authority.
- After approval of inspection, complete the application and pay the fee to obtain your temporary food operator's license.
- Contact the MDH and MDA, city or county officials, or fair board in the jurisdiction where your business will be located.
- If you have any questions, review this section or contact the MDH's Environmental Health Services, MDA or your local agency.

Bed and Breakfast Establishments

DEFINITION

Another popular type of food service establishment is a bed and breakfast, which offers overnight lodging and breakfast to the public for a fee.

REGULATORY AUTHORITY

All bed and breakfasts must comply with the regulations that govern both food and beverage service and lodging establishments in Minnesota. Both the food service and the lodging aspects of bed and breakfasts are regulated by the MDH. Rules of the MDH pertaining to restaurants also apply to the food service aspects of bed and breakfasts. One exception is for meals prepared and served to ten or fewer people. In this case, the MDH will permit the use of domestic or household equipment rather than commercial equipment normally required for a restaurant.

In addition to state regulation, units of local government may regulate bed and breakfast establishments. These regulations can be found in the ordinances of the city or county in which your bed and breakfast is located.

OBTAINING A LICENSE | *Source: MN Rules Ch. 4625*

Before your bed and breakfast establishment is allowed to operate, you must obtain both a food service operator's and a lodging operator's license. These licenses are issued by the Minnesota Department of Health (MDH) Environmental Health Services Division. In some cases, the MDH delegates its licensing and inspection authority to a city or county health services agency. If this is the case in your municipality, you will work with that agency instead of the state to obtain your establishment's licenses.

Before you begin planning your bed and breakfast establishment, it is important to be aware of several issues that uniquely affect this type of business. These matters should be investigated early in your planning process to determine whether or not you are prepared to start a bed and breakfast.

The first important issue to investigate is zoning. This is important because bed and breakfast are often located in a building

that was once a private residence. That building may be located in an area that is zoned for residential rather than commercial use. You should first check with the local zoning authorities to determine whether or not it is possible to operate a bed and breakfast in the neighborhood you have selected.

Second, investigate the sewage disposal system and well water supply. This is an important issue because most buildings are not designed for commercial use. As a result, you may need to make costly improvements to meet the MDH standards. Contact the MDH's Engineering Unit to determine whether or not your sewage disposal and well water supply meet regulations.

Third, lodging regulations establish minimum standards for toilet, lavatory and bath facilities, and minimum sizes for sleeping rooms. If your facility initially does not meet these standards, extensive and costly remodeling may be required.

Fourth, all potential lodging establishments are referred by the MDH to the State Fire Marshal for compliance with the State Fire Code.

Lastly, if you will be remodeling your establishment, your plans must be reviewed and approved by the MDH at least 30 days prior to construction. Failure to comply with MDH regulations will result in additional costs and further delays. Contact the MDH's Environmental Health Services Section Unit or your local authorities to receive more information about a plan review and code compliance.

LENGTH OF DETERMINATION PROCESS

The length of time required to obtain your bed and breakfast licenses will vary depending upon your particular situation. Generally, it takes from seven to 30 days. A longer period of time will be required if you are starting a new facility. If you are taking over the operation of an existing establishment which has a good history of licensing compliance, your licenses may be obtained in less time. Contact the MDH or your city or county authorities for bed and breakfast licensing information to avoid unnecessary delay in operating your business.

LICENSING PERIOD | *Source: MN Rules 4625*

A bed and breakfast operator's license is issued for the period lasting from January 1 to December 31. A license obtained during any part of the calendar year expires on December 31 of that year. There is no provision for a partial year license fee, and the license is not transferable.

LICENSE FEE

A license fee will be required for both the food service and the lodging aspects of your bed and breakfast establishment. These license fees will be set by the Commissioner of Health at a level sufficient to recover MDH expenses related to licensing, inspection, and enforcement. Contact the MDH for further information on the current license fees for bed and breakfast establishments.

INSPECTIONS

Your bed and breakfast will be inspected by the Minnesota Department of Health. The frequency of inspection will be based on your establishment's degree of health risk to the public (high, medium, low risk, or lodging risk). The MDH may delegate its authority to perform inspections to a local community health services agency. *(See section on restaurant inspections).*

Inspection criteria for the food service aspect of bed and breakfasts are established by state statutes and rules of the MDH. These criteria cover items such as food handling, sanitation, equipment, lighting, ventilation and plumbing. Criteria for the lodging aspect of a bed and breakfast are likewise specified by rule of the MDH. Following an inspection, the inspector may issue orders for compliance with health regulations. Failure to comply with these orders within the specified time could result in license revocation, suspension or closure of your business.

Even though each bed and breakfast is required to be inspected in accordance with the statutes, the MDH or local municipality has the authority to inspect your establishment at a greater frequency than required. If your establishment does not comply with state or local health regulations upon inspection, it is likely to be inspected more frequently.

Important Reminders for Starting a Bed & Breakfast Establishment

- Contact the MDH and local authorities for information on the specific regulations that your establishment must follow.
- Review the "Related Issues" section of this book which discusses many important issues to consider when starting a bed and breakfast.
- Review the statutes referenced in this section to acquire a listing and description of the regulations your establishment must follow. Visit your local library or the Minnesota Statutes' website.
- Submit blueprints to the MDH or local authorities. Blueprints must be submitted 30 days prior to construction.
- Have the establishment inspected by appropriate regulatory authority.
- After inspection approval, complete the application and pay the food service operator's and lodging operator's license fees.
- If you have any questions contact the Minnesota Department of Health Environmental Health Services or your local agency.

Chapter 4.

Food Manufacturing Businesses

Starting a food manufacturing business involves careful planning and thorough preparation. The following issues will be covered in this section:

- **Regulatory Authority**
- **Obtaining a License**
- **Inspections**

WHOLESALE FOOD HANDLERS DEFINITION

Wholesale food handlers are persons who sell food to others for resale.

REGULATORY AUTHORITY

Minnesota food wholesalers are regulated primarily by the Minnesota Department of Agriculture (MDA). Many food wholesalers are also subject to regulation by their own city or county ordinances. A food wholesaler that is engaged in the interstate sale of its own manufactured or processed food products is also subject to regulation by the U.S. Food and Drug Administration. If you want to start a food wholesale business in Minnesota, you should contact the MDA's Dairy and Food Inspection Division and refer to *21DFR 11* and *MS.28.A* to obtain more information about which regulations apply to your business.

OBTAINING A LICENSE | *Source: MN Stat. Ch. 28A.01*

Before you open your food wholesale facility, you will need to obtain a license.

A WHOLESALE FOOD HANDLERS LICENSE

To sell food to others for resale.

The license must be obtained prior to operating your food wholesale business, and must be conspicuously displayed on the premises. In addition, if you own or operate more than one facility, you must obtain a separate license for each location. Before the license is issued, your facility will be inspected to insure that it meets statutory and regulatory requirements, including sanitation of equipment and the premises; labeling; water supply and waste disposal; and the health and hygiene practices of the facility's personnel.

LENGTH OF DETERMINATION PROCESS

The length of the determination process for acquiring your license depends on whether your food facility meets the requirements and standards of the MDA. In most cases, the determination process can be expected to take from seven to 30 days.

LICENSING PERIOD | *Source: MN Stat. Ch. 28A.01*

Wholesale food handler licenses are issued for the period July 1, through June 30. There is no provision for a partial year license or fee, and the license is not transferable.

LICENSE FEE

The license fee is determined by the anticipated gross annual food sales for the first year of business. Renewals are based on the actual gross food sales from the previous year. You must acquire the license before opening your business. Failure to renew your food handlers license by its due date will subject your business to a late fee.

INSPECTIONS | *Source: MN Stat. Ch. 28A.01*

Before your license can be issued, your facility must be inspected and approved by the MDA. Once your license is issued, inspections will be conducted on a routine basis. However, if an inspector observes a history of improper food handling or complaints about your business, it will be subject to more frequent inspections.

Following an inspection, a written inspection report will be given to you. The inspection report may include compliance orders or comments resulting from the inspection. If the report includes compliance orders, you will be given a reasonable period of time to complete them. Failure to comply within the stated time may result in further regulatory action that may lead to suspension or revocation of your business license.

Important Reminders for Starting a Food Manufacturing Business

- Contact the MDA and the local authorities for information on required facility and zoning regulations.
- Contact the MDA and local authorities for information on labeling requirements.
- Review the "Related Issues" section on the many important issues to be considered when starting a food manufacturing business.
- Review the statutes referenced in this section or visit your local library or the Minnesota Statutes' website for a listing and description of the regulations your business must follow.
- Submit plumbing blueprints to the DOLI for review. If constructing or remodeling, blueprints must be submitted to the DOLI or local authorities before (30 days prior, recommended) beginning construction.
- Have the building inspected the appropriate regulatory authorities.
- After inspection approval, complete the application and pay the fee to obtain your food manufacturing license.
- If you have any questions, review this section or contact the MDA's Dairy and Food Inspection Division or your local clerk.

Chapter 5.

Related Issues for Businesses

Due to the complexity of starting a new food business, owners can often overlook or forget important issues related to their business. Businesses may face unpleasant situations such as a delayed opening, costly renovations, penalties, or even revocation of licenses if some issues are not properly addressed.

This section summarizes several issues affecting many food businesses. Each issue also lists a source you may contact for further information or assistance.

The following is a listing of important issues and regulations that are discussed in this section:

- Cigarette Sales Federal
- State and Local Taxes
- Insurance
- Liquor Licenses
- Minnesota Clean Indoor Air Act
- Minimum Wage
- Occupational Safety and Health
- Quality Assurance Dating
- Scanning Devices
- Underground Fuel Storage
- Universal Product Code (U.P.C.)
- Weights and Measures
- Vehicles
- WIC Food Stamps

Cigarette Sales

Every food business that sells or plans to sell cigarettes on their premises must be aware of several statutes and rules that apply to the sale of cigarettes. If you are thinking about selling cigarettes or operating cigarette vending machines, it is important to contact the local city or county authorities where your business will be located, the MDH and the MNDOR before opening your food business.

TAX RECORDS | *Source: MN Stat. Ch. 297*

Every retailer of cigarettes must obtain itemized invoices of all cigarettes purchased. The invoices must show the name and address of the seller and the date of purchase. The retailer must preserve a legible copy of each invoice for one year from the date of purchase. By statute, representatives of the Department of Revenue may enter a retailer's place of business during normal business hours to inspect required records and packages of cigarettes, tobacco products, and vending devices on the premises to determine whether your business is in full compliance with the law. For further information, contact the MNDOR.

CIGARETTE VENDING MACHINES | *Source: MN Stat. Ch. 297; MN Rules Ch. 325E*

The laws for sale of cigarettes in vending machines have been changed to prohibit vending machine sales of cigarettes. The one exception to this law provides for vending machine cigarette sales in establishments where no one under 18 is permitted, and is subject to additional mandatory criteria as well.

Contact the MDH, MNDOR and local licensing authorities before making the decision to install cigarette vending machines in your place of business. Significant penalties may be imposed to anyone not in compliance with the laws.

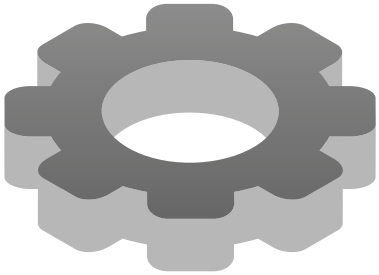
Employment of Minors *Source: MN Stat. Ch.181A*

Minnesota employers generally are covered by the Minnesota Child Labor Standards Act. Federal child labor laws apply if the employer is under the jurisdiction of the federal Fair Labor Standards Act and the federal act would provide more protection or set a higher standard. Information on federal child labor laws may be obtained from the United States Department of Labor. Information on state child labor laws may be obtained from the Minnesota Department of Labor and Industry (DOLI). Employers should check to see which jurisdiction they should follow.

Some topics of particular interest in Minnesota are prohibition of a minor under age 16 to work before 7 a.m. or after 9 p.m. or more than 40 hours in a week. Sixteen and 17 year old high school students may work until 11 p.m. on school days. No minor may be employed in hazardous occupations which include some processing plants or where they may be subject to hazardous substances.

Relating especially to the food industry, persons under 18 years of age may not serve, sell or perform other duties in a room where intoxicating liquor is sold or consumed. Seventeen year olds may perform busing or dish washing services in a restaurant that serves intoxicating liquors and 16 and 17 year olds may provide entertainment in those establishments with permission. Contact the DOLI for further information.

Every Minnesota employer is required to have proof of age of any minor employee or applicant. This must be secured from the minor in the form of an age certificate, a copy of the minor's birth certificate, or a copy of the minor's drivers license.



FEDERAL, STATE AND LOCAL TAX

All owners of Minnesota food businesses are required by statute to collect state sales tax on all retail sales of taxable food products and food and beverage services. A retail sale for purposes of the sales tax law is a sale for any purpose other than resale in the regular course of business. In addition to the state sales tax, a local sales tax may be imposed in some cities. The local sales tax may be a general sales tax, or it may be imposed only on items such as liquor or food and beverage service. Contact your city/county clerk or auditor, or the MDOR for further information about sales tax and rates.

Business Tax Identification Numbers

Examples of business taxes include: federal and state income taxes, state sales and use tax, Social Security tax, Medicare tax, Federal Unemployment tax (FUTA), and state unemployment tax. To pay these taxes and ensure that they are properly credited, your business will need specific tax identification numbers.

Federal Employer Identification Number

A federal employer identification number is needed if your business has employees, or is a partnership or corporation. If the business is a sole proprietorship and has no employees, your social security number will be used as the federal tax identification number.

Your federal employer identification number can be obtained by filing *Form SS-4*, Application for Employer Identification Number, with the Internal Revenue Service (IRS). The form may be obtained from the IRS Taxpayer Assistance Unit.

Minnesota Taxpayer Identification Number

A Minnesota taxpayer identification number will be needed if your business will have employees, will be a partnership or corporation, or will make taxable sales at retail. If the business is a sole proprietorship and is not involved in making taxable sales, your social security number will be used as the state taxpayer identification number.

Your state taxpayer identification number can be obtained by calling the MDOR to file Form ABR, Application for Business Registration, over the phone.

Obtaining the Sales and Use Tax Permit

A sales and use tax permit must be obtained before your business can make taxable sales. The permit can be obtained by calling the MDOR Registration Services or by filing *Form ABR, Application for Business Registration*, with the MDOR. The preferred method of applying for a Minnesota Tax Identification Number is by phone.

After the completed application is received, the MNDOR will issue your food business a sales tax account number and permit. The permit will be sent to your place of business, along with the firm's name, address, and account number. It will be mailed to you approximately 25 days before its due date.

Business' are required to collect tax on all taxable sales as soon as a sale is made, regardless of receipt of the sales and use tax permit.

Food Products | *Source: MN Stat Ch. 297A*

Most food products sold in retail stores are exempt from state sales tax. Exceptions to this general rule are candy and candy products, carbonated beverages, soft drinks containing less than 15 percent fruit juice, and bottled water (other than non-carbonated and non-effervescent bottled water) sold in individual containers of one-half gallon or more in size. Sales tax must be collected on these items.

Food and Beverage Services | *Source: MN Stat Ch. 297A*

Sales tax is imposed on the furnishing, preparation or serving of food, meals or drinks for a consideration. Taxable food or meals include, but are not limited to: heated food or drinks; sandwiches prepared by the retailer; single sales of prepackaged ice cream or ice milk novelties prepared by the retailer; handprepared or dispensed ice cream or ice milk products including cones, sundaes and snow cones; soft drinks and other beverages prepared or served by the retailer; gum; ice; food sold in vending machines; party trays prepared by the retailer; and all meals and single servings of packaged snack food.

Products Purchased for Resale

Items purchased by a business for resale to the ultimate consumer are not subject to state sales tax. Examples of items purchased by food establishments for resale include disposable napkins, tableware, place mats, and the like that are sold or consumed with the meal. The purchase of non-disposable items that are used by the business (e.g. cookware, table linens, washable dishes) are treated as retail sales and sales tax must be paid on those items. A business that purchases items for resale must give its supplier a resale exemption certificate, available from the MNDOR. This certificate establishes written proof that the business is purchasing the item for resale.

Employees Receiving Tips

In addition to the general requirements applicable to hiring employees, you must be aware that any of your employees who receive tips are subject to special Internal Revenue Service rules on the reporting of tip income and withholding income and social security taxes on that income.

Understanding how to properly report employee tips is an important part of operating a food and beverage service establishment. Employees who receive tips of $20 or more in a month are subject to withholding of income tax and social security tax. Employees must include all tips received directly from customers, tips from charge customers that are paid to them by the employer, and their share of any tips received under a tip-splitting agreement. Employers must educate their employees so they are aware that all tips they receive are taxable income and are subject to federal income tax.

Employees Receiving Less Than $20 in Tips in One Month

Employees receiving less than $20 in tips per month do not have to report them to their employers. However, they must include their total amount of money earned from tips in their annual income tax return. They do not have to pay social security tax and Medicare tax on these tips.

Employees Receiving $20 or More in Tips in One Month

All food business employees receiving a tip income of $20 or more in a month will be required to report that income in writing to their employer by the tenth day of the next month. This includes the value of tips not paid in cash, such as passes, tickets, goods, or services. All employee tips must be reported to the employer through Form 4070 and Employee's Report of Tips to Employer. This form, available only in Publication 1244, tells employees what information they must report. If they do not use Form 4070, their report should include the following:

- Amount of tips,
- Employer's name and address,
- Employee's name, social security number, and address,
- The month (or shorter period) covered,
- Employee's signature, and
- The date of the report.

The IRS *Form 4070* and the *Employee's Report of Tips to Employer* may be used for reporting tips. These two forms are available without charge from the IRS. For further assistance, contact the IRS Taxpayer Assistance Unit located in Minnesota.

Withholding Taxes on Tip Income by Employer

Employers must withhold federal and state income tax, Medicare tax, and social security taxes on tip income reported by the employee. In addition, employers usually deduct the withholding due on tips from their employee's regular wages. However, employees do not have to withhold income tax if they can claim exemption from withholding.

Exemption From Withholding

Income tax will not be taken out of employees' pay if they give their employer a filled in *W-4, Employee's Withholding Allowance Certificate,* claiming exemption from withholding. Employees can claim exemption only if they had no income tax liability the previous year and expect none the current year. Withholding exemption is only good for one year. To continue exemption, employees must file a new *Form W-4* by February 15 of the following year to certify that they meet the conditions for claiming exemption. For further details, contact the IRS or review the *W-4, Employee's Withholding Allowance Certificate*.

Minnesota Minimum Wage Law

The minimum wage that must be paid by Minnesota employers depends on whether or not the employer is covered by the Federal Fair Labor Standards Act (FLSA) or by the Minnesota Fair Labor Standards Act (MFLSA). The MFLSA covers firms that are not covered by the FLSA unless they are exempted from coverage by statute. Contact your local authorities or the Minnesota Labor Standards Division.

Unemployment Compensation Tax

Unemployment compensation is paid to eligible workers who lose their jobs. Funds to pay unemployment compensation claims are provided by unemployment taxes. Federal unemployment compensation taxes (often referred to as FUTA) are administered by the IRS. State unemployment compensation taxes and the state Economic Security Law are administered by the Minnesota Department of Economic Security.

A Minnesota unemployment insurance account number can be obtained by filing *Form DJT-13* with the Department of Economic Security.

INSURANCE

Before starting a food business, it is important to talk with your insurance agent about your business' insurance needs. Your agent can assist you in tailoring an insurance package to meet the specific needs of your business. The basic kinds of insurance coverage include:

Property Insurance

Property Insurance protects your business property against loss caused by the destruction of all or part of the property by fire, windstorm, explosion, and other perils.

Business Interruption Insurance

This coverage protects your business against lost earnings resulting from an interruption caused by damage to or destruction of the property. Similar insurance will provide coverage if you are hospitalized or otherwise disabled and are unable to continue the business.

Liability Insurance

Liability Insurance will provide coverage for a product manufactured or sold by your food business. The coverage applies to the product once it leaves your business. The liability insurance may protect you and anyone employed by your business in case the ultimate user of the product sues for bodily injury or property damage.

Worker's Compensation Insurance

This insurance will provide payment of compensation benefits, as established by statute, to injured employees of your business. All Minnesota employers are required by law to carry workers' compensation insurance covering their employees.

Bonding

There are two types of bonds that your business should seriously consider. A *fidelity bond* will guarantee against loss due to the dishonesty of employees. A *surety bond* will guarantee the performance of various types of obligations assumed by contract or imposed by law.

Group Insurance for Employees

If you plan to provide your employees with group life insurance and group health insurance as employee benefits, you must conform to standards established by state and federal law. Group insurance is not required by law.

Liquor Licenses

If you are planning to sell and/or serve liquor, it is important that you understand and abide by the regulations. The following section discusses important information about liquor licenses. Retail liquor sales are regulated by the Minnesota Liquor Act. There are three types of retail liquor licenses that may apply to a retail food business:

On-sale intoxicating liquor license is issued for the consumption of liquor on the licensed premises only.

On-sale wine license is issued to a restaurant with facilities seating at least 25 guests at one time. A wine license permits the sale of up to 14 percent alcohol by volume for consumption with the sale of food.

On-sale or off-sale non-intoxicating malt liquor license may be issued for the sale of malt liquor containing not less than one half of one percent alcohol by volume or more than 3.2 percent alcohol by weight. An off-sale non-intoxicating malt liquor license is issued for the sale of the beverage in its original package for consumption off the licensed premises only. A business that has an on-sale intoxicating liquor license may sell non-intoxicating malt liquor without obtaining an additional license.

In addition, a beverage license from the MDH is required for an establishment serving alcohol from a bar, or beer/wine table service. Contact the MDH for further information.

Obtaining a Retail Liquor License | *Source: MN Stat. Ch. 340A*

To apply for a retail liquor license, the business owner should first contact the unit of local government (city, county, or town) in which the establishment will be located. The local unit of government will coordinate the application process, conduct a preliminary investigation, and, where required, submit the completed application to the Alcohol and Gambling Enforcement Division of the Minnesota Department of Public Safety (DPS) for approval prior to issuing the license.

The following sections describe provisions of the Minnesota Liquor Act that are most pertinent to food businesses. Contact your unit of local government that issues retail liquor licenses or the DPS's Alcohol and Gambling Enforcement Division.

License Fees, Liability Insurance, Bonding | *MN Stat. Ch. 340A*

The fee for a retail liquor license is established by the local unit of government, subject to certain statutory limitations. Your business must demonstrate proof of financial responsibility by carrying liability insurance and a bond or other security in at least the amount established by statute before obtaining a retail liquor license. In addition, your food business' unit of local government may require additional insurance or a higher bond. Contact your local authorities for further information about license fees, insurance and bonding.

Pre-License Investigation | **Source**: *MN Stat Ch. 340A*

Upon receipt of an initial application for an on-sale liquor license, an investigation of your financial background will be conducted by the city or county in which your food business will be located. A comprehensive investigation may be required by the city or county, or by the state. An investigation fee may be charged. Contact your local licensing authorities for further information about pre-license investigation.

Sales to Minors | *Source: MN Stat. Ch. 340A*

A retail liquor licensee by statute may not permit persons under the age of 21 to consume alcoholic beverages on the licensed premises or sell or otherwise furnish alcoholic beverages to persons under the age of 21. Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid driver's license, Minnesota identification card, military identification card, or a valid passport.

Civil Liability | *Source: MN Stat. Ch. 340A*

By statute, a retail liquor licensee is responsible for the conduct in a licensed establishment, and any sale of an alcoholic beverage by an authorized employee is considered the act of the licensee. It is unlawful to sell or otherwise furnish alcoholic beverages to an obviously intoxicated person. If damages occur, civil action may be taken against the person who caused the intoxication by illegally selling the alcoholic beverages. This statute, also known as the Minnesota Civil Damage Act, creates a substantial risk of liability for businesses that sell liquor. Accordingly, persons considering obtaining a retail liquor license are strongly encouraged to consult with legal counsel and their insurance agent to determine how best to protect themselves against that risk of liability.

Additional Regulations | *Source: MN Stat. Ch. 340A*

The Minnesota Liquor Act restricts the number of intoxicating liquor licenses that may be issued by a unit of local government, and prohibits the licensing of establishments in certain areas. The hours and days when liquor may be sold are also regulated by statute. In addition to state restrictions, the unit of local government that issues the license may impose further restrictions. Contact your local licensing authorities for further information about additional regulations regarding liquor.

MINNESOTA CLEAN INDOOR AIR ACT *144.411 - 144.417*

Public Policy/ | *Source: MN Stat. 144.412*

To protect employees and the general public from the hazards of secondhand smoke, the Minnesota Clean Indoor Air Act (MCIAA) prohibits smoking inside all places of employment, public places, public transportation and at public meetings with very few exceptions. The Minnesota Clean Indoor Air Act is administered and enforced by the MDH, although some ciites and counties have been delegated inspection and enforcement authority with can be found at www.health.state.mn.us/divs/eh/food/licnse/local.pdf

Owner's Responsiblities | *Source: MN Stat. 144.416*

The owner's of an establishment must make reasonable efforts to prevent smoking in the plublic place by posting "no smoking" signs, refarin from providing ashtrays and other smoking equipment indoors, ask person who smoke indoors to refrain from smoking and ask them to leave if they refuse.

Signs | *Source: MN Rules 4620*

To advise persons of the existence of non-smoking, signs must be posted in appropriate areas. Signs must be posted on or immediatley inside of establishment entrances to notify occupants that smoking is prohibited. The content of these signs and their placement are determined by rules of the Commissioner of Health. A copy of an approved sign can be found at: www.health.state.mn.us/divs/eh/indoorair/mciaa/ftb/docs/nosmoking.pdf

Resources

To obtain further information on the Minnesota Clean Indoor Air Act you can visit the MDH website at: www.health.state.mn.us/freedomtobreathe or contact MDH directly at:

Minnesota Department of Health - Indoor Air Unit
P.O. Box 64975, St. Paul, MN 55162-0975
651-201-4601 or 1-800-798-9050 (toll-free outside the metro area) or 651-2015797 (TDD)
mciaa@health.state.mn.us

MINIMUM WAGE

Minnesota employers are required to pay their employees minimum wage, unless their annual revenues are below the state guidelines for this mandate. Contact DOLI for more information.

OCCUPATIONAL SAFETY AND HEALTH

The Occupational Safety and Health Compliance Division of the Minnesota Department of Labor and Industry administers the Minnesota Occupational Safety and Health Act (OSHA). The express legislative purpose of this Act is "to assure so far as possible every working man and woman in the State of Minnesota safe and healthful working conditions and to preserve our human resources."

OSHA standards apply to all places of employment in the state with the exception of those under the exclusive jurisdiction of the federal government. Employers must maintain a log of injuries and illnesses as prescribed in the Minnesota OSHA rules and must post an annual summary of those injuries.

For more information contact the DOLI OSHA Compliance Division.

SCANNING DEVICES *Source: MN Stat. Ch. 325F.53*

A retail grocery store that uses electronic or magnetic scanners to read the price of grocery items at a checkout station must by statute also mark the price on each individual item. Alternatively, if the store provides a means by which the customer may mark individual items, the store may conspicuously display the price where the item is shelved.

The individual price marking requirement does not apply to:

1. Food items intended to be consumed on or about the retail premises.
2. Grocery products sold by a store primarily engaged in the sale of grocery products at retail which are under three cubic inches in size, weigh less than three ounces, and are priced under 30 cents.
3. Grocery products sold by a store primarily engaged in the sale of grocery products, offered for a period of seven days or less, on sale in good faith at a price below the usual price of the merchandise, provided that the sale price is clearly indicated to the consumer by conspicuous sign or otherwise, located at or near the point of sale of such merchandise.
4. Cigarettes, cigars, tobacco and tobacco products with a retail price of $1 or less.
5. Items actually sold through vending machines.
6. Any type of grocery product sold by a store primarily engaged in the sale of grocery products which is not marked in accordance with the uniform products code or any similar marking system designed to be scanned by electronic or magnetic checkout equipment

In addition to these exemptions, a retailer may choose to not individually price mark not more than 25 classes of items or individual items if the price of the items is conspicuously posted in the store, and may choose to not individually price mark not more than 25 additional classes of items or individual items which are advertised or featured at a reduced price.

UNDERGROUND FUEL STORAGE

If you are thinking about starting a convenience store or other food business that will also sell gasoline, you should be aware that underground fuel storage tanks are regulated by the Minnesota Pollution Control Agency (MPCA). Contact the MPCA's Solid and Hazardous Waste Division for information on notification requirements and other regulations.

UNIVERSAL PRODUCT CODE (U.P.C.)

The Universal Product Code (U.P.C.) is a system for uniquely identifying suppliers and their products that are warehoused, sold, delivered, and billed throughout retail and commercial channels of distribution. It provides an accurate, efficient, and economical means of controlling the flow of goods through the use of an all-numeric product identification system.

The U.P.C. is a 12-digit, all-numeric code that identifies the company/product combination. The code uses a six-digit number to uniquely identify each company coupled with a five-digit number to identify each of the company's products. The combination of these eleven digits plus a check character form the 12-digit U.P.C. number which uniquely identifies an item.

Getting Your U.P.C.

1 **Apply for your Universal Product Code Identification Number**
With your membership, you will be assigned a unique six digit company identification number for use on all of your products. A full set of technical specifications and guidelines will be provided with your number.

2. **Assign Item Numbers**
You should assign a five digit number to each of your products. You must assign different numbers for every product. The number assigned to each product must be unique to allow for store inventory and pricing purposes.

3. **Provide Information to Your Staff and Retailers**
All of your production, distribution, marketing and accounting personnel should be aware of your U.P.C. numbers and policies. Once the complete numbering system is in place, it is easy to adapt the system to invoices, shipping labels, packing lists, receiving tickets, price books, etc. Maintaining the accuracy of the active U.P.C. information is a joint responsibility between the manufacturer and distributor. Record of an item's introduction, inactivity, and/or discontinuance needs to be provided in a timely and clear manner.

Regulatory Authority

Unlike most codes, U.P.C. is governed by the Uniform Code Council (U.C.C.) rather than the government. To obtain more information about the U.P.C. and its regulations, contact the U.C.C. *(See Chapter 6 for contact information.)*

WEIGHTS AND MEASURES

If your operation uses scales or volumetric means of measuring, such as for produce, bulk foods or gasoline at a food establishment, your scales must be certified annually by the Minnesota Department of Public Service (DPSV) Weights and Measures Division. A nominal fee is charged for this service, based upon the maximum load. Contact DPSV for further information.

VEHICLES

Sanitation Standards | *Source: MN Rules Ch. 1550; MN Stat. Ch. 31*

Food vehicles used by businesses that are licensed by the MDA must meet the standards for cleanliness, sanitation, and condition of repair. The vehicles must also comply with MDA temperature requirements for proper holding and handling of food. Vehicles used as mobile food units are regulated by the MDA or MDH. Regulations affecting these types of businesses are discussed in the section on "Mobile Food Units."

Regulatory Authority | *Source: MN Rules Ch. 1150; MN Stat. Ch. 28A.01*

The Department of Agriculture's authority to regulate food vehicles is found in *MN Rules 1550.0930-1500.0950 under* "Delivery of Food" and in *MN Stat. Ch. 28A.*

Permit From MNDOT | *Source: MN Stat. Ch. 221*

Persons operating for-hire transportation services must obtain a permit from the Minnesota Department of Transportation (MNDOT). However, this requirement does not apply to motor vehicle operations conducted merely as an incident to or in furtherance of a business activity other than transportation. A person operating a food business who provides delivery service that is incidental to, or in furtherance of that business, is not required to have a permit from MNDOT. An individual engaged in the business of providing delivery services is required to have a permit from MNDOT. In addition, the MNDOT may regulate or prohibit certain materials from being transported in food vehicles. Contact the MNDOT for further information about permits for your food business' food vehicles.

Local Permit

The city or county where your business is located may require a permit for its local food vehicles. Information on local permit requirements may be obtained from your city clerk or county auditor.

Food Stamps and WIC

Food Stamps and WIC are common programs sponsored by the Federal Government. Information on these and other programs can be found on the NATIONAL HUNGER HOTLINE Food Information and Referral Connections to emergency food and government hunger and poverty programs at 866-3-HUNGRY and on the web on http://www.fns.usda.gov

Information on Food Stamps can be found at 1-877-823-4369 and for WIC programs in Minnesota at 1-800-WIC-4300.

In addition, these issues are addressed in detail in the publication, *A Guide to Starting a Business in Minnesota,* available free of cost from the Minnesota Small Business Assistance Office.
Visit www.deed.state.mn.us/bizdev/start.html and click on A Guide to Starting a Business in Minnesota.

Chapter 6.

Resources

GOVERNMENT, FEDERAL

- **Internal Revenue Service (IRS)**
  Central Area Distribution Center, P.O. Box 8903
  Bloomington, IL 61702-8903
  www.irs.ustreas.gov
  (800) 829-1040

- **Small Business Administration (SBA)**
  100 North 6th St., Suite 210C
  Butler Square Building
  Minneapolis, MN 55403
  www.sba.gov
  (612) 370-2324

GOVERNMENT, STATE

- **Agriculture, Minnesota Department of (MDA)**
  625 Robert St. North
  St. Paul, MN 55155-2538
  www.mda.state.mn.us
  - **Ag Certification Division**
    for Wholesale Produce Dealer License information
    (651) 201-6620
  - **Dairy and Food Inspection Division**
    (651) 201-6027
  - **Ag Marketing and Development Divison**
    (651) 201-6648

- **Employment and Economic Development, Minnesota Department of (DEED)**
  1st National Bank Building
  332 Minnesota St., Suite 200
  St. Paul, MN 55101
  (651)297-7114
  www.deed.state.mn.us
  - **Financial Resources in Minnesota**
    (651) 297-1292 (metro) or (800) 657-3858
  - **Tax Liability Section**
    Unemployment insurance
    (651) 296-6141
  - **Small Business Assistance Office**
    (651) 259-7476

- **Health, Minnesota Department of (MDH)**
  P.O. Box 64975
  St. Paul, MN 55164-0975
  www.health.state.mn.us
  (651) 201-5000
  (888) 345-0823 (toll-free)
  (651-201-5797 (TTY)

- **Labor and Industry, Minnesota Department of (DOLI)**
  443 Lafayette Rd.
  St. Paul, MN 55155
  www.doli.state.mn.us
  (651) 284-5005
  - **Labor Standards Division**
    Minimum wage requirements
    (800) 342-5354
    OSHA Compliance
    (651) 284-5005
  - **Workers' Compensation Hotline**
    (800) 342-5354 or
    (651) 284-5005

- **Minnesota Statutes**
  Office of the Revisor of Statutes
  100 Rev. Dr. Martin Luther King Jr. Blvd.,
  700 State Office Building
  St. Paul, MN 55155
  www.leg.state.mn.us./leg/statutes.htm or
  www.leg.state.mn.us/leg/statsrch.htm
  (651) 296-2868

- **Pollution Control Agency, Minnesota (MPCA)**
  520 Lafayette Rd.
  St. Paul, MN 55155
  www.pca.state.mn.us/netscape.html
  (651) 296-6300
  - **Industrial Division**
    Harzardous waste and industrial waste water permits
    (612) 297-1832 or (612) 296-6300

- **Public Safety, Minnesota Department of (DPS)**
  1000 Bremer Tower, 445 Minnesota St.
  St. Paul, MN 55101
  www.dps.state.mn.us
  - **Fire Marshal Division**
    (651) 201-7200

- **Public Service, Minnesota Departmenty of (DPSV)**
  Central Office, Town Square
  444 Cedar St.
  St. Paul, MN 55101
  www.dpsv.state.mn.us
  (651) 201-7000

- **Revenue, Minnesota Department of (MNDOR)**
  600 Robert St. North
  St. Paul, MN 55101
  www.taxes.state.mn.us/index.html
  - **Sales Tax Information**
    Sales & use tax; phone help; education schedule
    (651) 296-6181 metro or (800) 657-3777
  - **Registration Services**
    To obtain Minnesota Taxpayer Identification #
    (612) 282-5225 metro or (800) 657-3605

FILE IN-PERSON OR MAIL TO:

- **Office of the Secretary of State (SOS)**
  Retirement Systems of Minnesota Building
  60 Empire Drive, Suite 100
  St. Paul, MN 55103
  (651) 296-2803

- **Transportation, Minnesota Department of (MNDOT)**
  Transportation Building
  395 John Ireland Blvd.
  St. Paul, MN 55155
  www.dot.state.mn.us
  (651) 296-3000 (voice)

  Safety Regulations Information Services
  Motor Carrier Services
  (651) 405-6060 or (888) 4SAFETY

GOVERNMENT, LOCAL

- Duluth, City of City Clerk's Office
  Room 330 City Hall
  Duluth, MN 55802

  Duluth City Licenses
  (218) 723-3340

- **Minneapolis City Licenses**
  Room 1-C, City Hall
  Minneapolis, MN 55415
  Department of Licensing & Consumer Services
  Attn: Business Licenses
  (612) 673-2080

- St. Paul, City of *(Dept. of Safety Inspection DSI)*
  8 East 4th St.
  Commerce Building, Suite 200
  St. Paul, MN 55101-1024
  To obtain a copy of St. Paul City Licenses
  (651) 266-9090

ADDITIONAL RESOURCES

- **Agricultural Utilization Research Institute**
  P. O. Box 599
  Crookston, MN 56716-0599
  www.auri.org
  (218) 281-7101

- **Inventors Network**
  Patenting, Licensing, Negotiating
  23 Empire Dr, Suite 105
  St. Paul, MN 55103-1856
  (651) 602-3175

- **Regarding Bar Coding**
  GS1 US
  7887 Washington Village Dr.
  Dayton, OH 45459
  www.gs1us.org
  (937) 435-3870

- **University of Minnesota**
  Extension Service
  Education Development System
  405 Coffey Hall
  St. Paul, MN 55108-1030
  www.mes.umn.edu
  (651) 625-2787

SMALL BUSINESS DEVELOPMENT CENTERS

Mn Small Business Develpment Centers (MnSBDC's)
Administrative Office
1st National Bank Building
332 Minnesota Street, Suite E200
St. Paul, MN 55101-2146
(651) 259-7423
www.mnsbdc.com

Bemidji
Bemidji State University ..... (218) 755-4286

Bloomington
Normandale Community College ..... (952) 487-8163

Brainerd
Central Lakes College ..... (218) 855-8142

Cambridge
Anoka-Ramsey Community College.... (763) 433-1964

Chatfield
Southeast MN Development Corp ..... (507) 867-3164

Duluth
University of MN Duluth..... (218) 726-7298

Grand Rapids
Itasca Development Corporation ..... (218) 327-2241

Hibbing
Hibbing Community College..... (218) 262-6703

International Falls
Rainy River Community College ..... (218) 285-2255

Mankato
Region Nine Development Comm..... (507) 389-8863

Marshall
Southwest State University..... (507) 537-7386

Minneapolis
Minnesota Project Innovation Inc..... (612) 338-3280

Minneapolis
University of St. Thomas..... (651) 962-4500

Moorhead
Moorhead State University..... (218) 236-2289

Owatonna
Owatonna Incubator Inc..... (507) 451-0517

Pine City
Pine Technical College ..... (320) 629-4510

Plymouth
Hennepin Technical College ..... (763) 550-7218

Red Wing
Pottery Office & Professional Center.... (651) 388-1161

Rochester
University Center Rochester ..... (507) 285-7536

Rosemount
Dakota County Technical College ..... (651) 423-8262

St. Cloud
Small Business Development Center.... (320) 308-4842

St. Paul
SBIR/STTR Assistance Program ..... (320) 255-4842

White Bear Lake
Century College ..... (651) 779-5764