A Guide to Regulations for Local Food Entrepreneurs
By Megan O’Hara, 2013 Senior Fellow
INTRODUCTION

- Trends change food system
- Growth of small food businesses create issues
- Federal/state changes: FSMA and MN Food Code updating
- Collaborative groups
THE FEDERAL AND STATE RELATIONSHIP

- USDA, FDA, HHS, Commerce, DHS
- MN Dept. of Agriculture
- MN Dept. of Health
<table>
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<tr>
<th>AGENCY</th>
<th>ROLE</th>
<th>REGULATED ENTITIES</th>
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<tr>
<td>Minnesota Department of Agriculture (MDA)</td>
<td>MDA licenses and inspects food manufacturers, wholesalers, transporters, and retailers. Inspectors enforce state standards relating to food quality, condition, labeling, and advertising as well as the sanitation of premises, equipment, and vehicles used in the sale, storage, or distribution of foods and beverages. MDA also investigates complaints regarding questionable food products or sales practices, participates in foodborne illness investigations involving MDA-regulated facilities, and educates regulated entities and citizens about safe food-handling practices.</td>
<td>Grocery stores; bakeries; convenience stores; meat or poultry processors; egg handlers; dairy farms, processing plants, and haulers; food manufacturers; vending machines; food delivery vehicles; fair stands; mobile food units; wholesale food distributors; and feed mills</td>
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<tr>
<td>Minnesota Department of Health (MDH)</td>
<td>MDH licenses and inspects food service entities; enforces the food code (Minn. Rules, ch. 4626); and provides food safety information to the public and industry via its website, an interactive education program, and professional development courses. MDH also tracks and monitors foodborne illness through disease outbreak detection activities, including active lab surveillance for reportable diseases, utilization of the Minnesota Foodborne Illness Hotline, and inspection of identified facilities to ensure safe food handling.</td>
<td>Cafes; restaurants; bars and lounges; bed and breakfasts; hotels; motels; resorts; delis; caterers; cafeterias; coffee shops; clubs; and conference centers</td>
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STATE AND LOCAL RELATIONSHIP

- MDA and MDH authority
- Offices located throughout MN
MINNESOTA FOOD CODE

- MN food rules, Chapter 4626
  - MDA and MDH collaborated for uniform standard
- What is HACCP?
The Minnesota Food Code requires all food sold or served to the public must be from an Approved Source.

A Food Handler License is required if any “processing” has occurred as defined by MDA.

Types of meat processors
- USDA Facility
- Equal-to plants
- Custom exempt: not an approved source
Local Regulation

County or city planning and zoning staff can provide information on building codes and local ordinances governing your type of food business.

- Zoning
- Business Licensing
- The Beez Kneez zoning issue
Plan Review

- Plan Review application and materials are available from your local city offices, Minnesota Department of Health or Minnesota Department of Agriculture
Building, Fire, Plumbing and Electrical Codes

- A food facility must comply with the State Building Code

- Inspections by building inspectors (fire, plumbing, electrical) and sanitarian/environmental health inspectors are two primary ways local food businesses interact with government on an ongoing basis

- The Inspector is designed to be a resource, not an adversary.
Focus on Key Local Segments

- Farmers’ Markets
- Mobile Food Operations
- Commercial Kitchens
Overview of Farmers’ Markets

- “Products of the farm” allowed in MN Constitution
- Cottage food laws grant exemptions
- Minnesota Statute 28A.15 exemptions: Sub. 9 Non-Potentially Hazardous Foods and Sub. 10 “Pickle Bill”
Trend: Food Sampling and Nutrition

- Many vendors and farmers’ markets began to offer food tasting and samplings

- In 2013, the Minnesota Farmers’ Market Association worked with regulators to allow without additional licenses:
  - Allow safe sampling without additional license
  - Gravity hand washing equipment, warm water & soap
  - Plastic gloves, 3 oz. samples in cups, toothpicks
Case Study: St. Paul Farmers’ Market, Summer 2013

- Audit on St. Paul Farmers’ Market found issues
- City farmers’ market license did not comply with state statute
- MDA/MDH began inspections of St. Paul Farmers’ Market
- Informed vendors of license requirement for prepared foods
Overview of Mobile Food Businesses

- Many new types of mobile and temporary food stands
- Food trucks fast growth in metro and growth in communities statewide
# Types of Mobile Food Businesses

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<thead>
<tr>
<th>Type</th>
<th>Description</th>
<th>Link</th>
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<tr>
<td><strong>FOOD CART</strong></td>
<td>A non-motorized vehicle self-propelled by the operator.</td>
<td><a href="http://www.health.state.mn.us/divs/eh/food/license/foodcart.pdf">http://www.health.state.mn.us/divs/eh/food/license/foodcart.pdf</a></td>
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<tr>
<td><strong>MOBILE FOOD UNIT</strong></td>
<td>A vehicle-mounted unit, motorized or trailered, that can be moved from one location to another without being disassembled.</td>
<td><a href="http://www.health.state.mn.us/divs/eh/food/license/mfureview.pdf">http://www.health.state.mn.us/divs/eh/food/license/mfureview.pdf</a></td>
</tr>
<tr>
<td><strong>SEASONAL PERMANENT FOOD STAND</strong></td>
<td>A permanent food and beverage service stand that operates no more than 21 days a year.</td>
<td><a href="http://www.health.state.mn.us/divs/eh/food/license/seasperm.pdf">http://www.health.state.mn.us/divs/eh/food/license/seasperm.pdf</a></td>
</tr>
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<td><strong>SEASONAL TEMPORARY FOOD STAND</strong></td>
<td>A food and beverage service stand that is disassembled and moved from location to location.</td>
<td><a href="http://www.health.state.mn.us/divs/eh/food/license/tempseason.pdf">http://www.health.state.mn.us/divs/eh/food/license/tempseason.pdf</a></td>
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<td><strong>SPECIAL EVENT FOOD STAND</strong></td>
<td>A food and beverage service establishment that is used in conjunction with celebrations and special events and which operates no more than three times annually for no more than 10 total days.</td>
<td><a href="http://www.health.state.mn.us/divs/eh/food/license/specevent.pdf">http://www.health.state.mn.us/divs/eh/food/license/specevent.pdf</a></td>
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| **RETAIL FOOD VEHICLE, PORTABLE STRUCTURE** | A food establishment licensed under Minnesota Statutes, sections 28A.06 and 28A.07, that is a motor vehicle, portable structure, or nonmotorized cart where food and food products are:  
  A. offered to the consumer;  
  B. intended for off-premises consumption; and  
  C. not subject to on-site preparation. |                                                                                      |
Trend: Food Trucks

- Since Chef Shack appeared in 2008, food trucks have grown in popularity

- Food Trucks were introduced into ordinance in the City of Minneapolis in 2011
Case Study: Prairie’s Bay Side Dish Food Truck

- Obtained licenses and zoning permissions from city of Brainerd
- Served with a cease and desist order from the city after complaints from local businesses
- Built a base of support from customers and local businesses to gain approval
Overview of Commercial Kitchens
Trend: Shared Commercial Kitchens

- For many small businesses, working in an existing space is most cost-effective
- Kitchen manager works with inspectors during all phases
- Inspector compares initial plan with each new tenant license
- Each operator of the commercial kitchen must obtain a business license and insurance policy
Case Study: Pashen Bars

- The Solquists began business in state of Virginia under Cottage Food law
- Kindred Kitchen made production costs more reasonable
- Kindred Kitchen offers educational classes for users
Recommendations

- Timeliness
  - Clear timelines could help speed up processes

- Transparency
  - Making information easier to find
  - FAQ should move to front pages of website

- Consistency

- Scale-Appropriate
Questions?