

REGULATIONS

What Licensing Will I Need?

Before you put up a sign and welcome guests, you need to consider the regulatory dimensions of a farmstay. If you're going to have people pay to stay on your farm, you are establishing a lodging business. As with any new business, there are a handful of rules and regulations you need to know about and abide by.

The two regulatory bodies responsible for licensing or permitting lodging establishments are your county Planning and Zoning office and the Minnesota Department of Health. Before you contact these offices, you need an idea of what type of guest accommodations you have in mind. Will guests stay in spare bedrooms or in a mother-in-law apartment in your house? Will you repurpose outbuildings to be used as guest accommodations or are you thinking about building a new structure where visitors can stay? Having an idea of what you want to do, or at least the options you want to explore, will help in the conversations with the regulatory bodies.

County Planning and Zoning

You'll need to first determine if your local zoning laws permit you to establish a farmstay. Once you have some basic options of what kind of farmstay you have in mind, you will want to talk with your county Planning and Zoning office. To find the right person to talk to, contact your county office or visit the Minnesota Association of County Planning and Zoning Administrators at www.macpza.org.

If you can, go meet with these people in person. They can give you a list of allowable uses for your property and will be able to tell you if your farmstay plan meets local zoning criteria. If your farmstay plan meets the planning ordinance for your zone, you likely will not need to apply for special permits from the county, but every county is different.

If zoning officials see a conflict between the county's planning objectives and ordinances and your business objectives, you may be required to obtain a conditional use permit (CUP for short, and sometimes called a Special-Use Permit). Obtaining a CUP can be a somewhat arduous process depending on the circumstances. The issuance of a CUP can

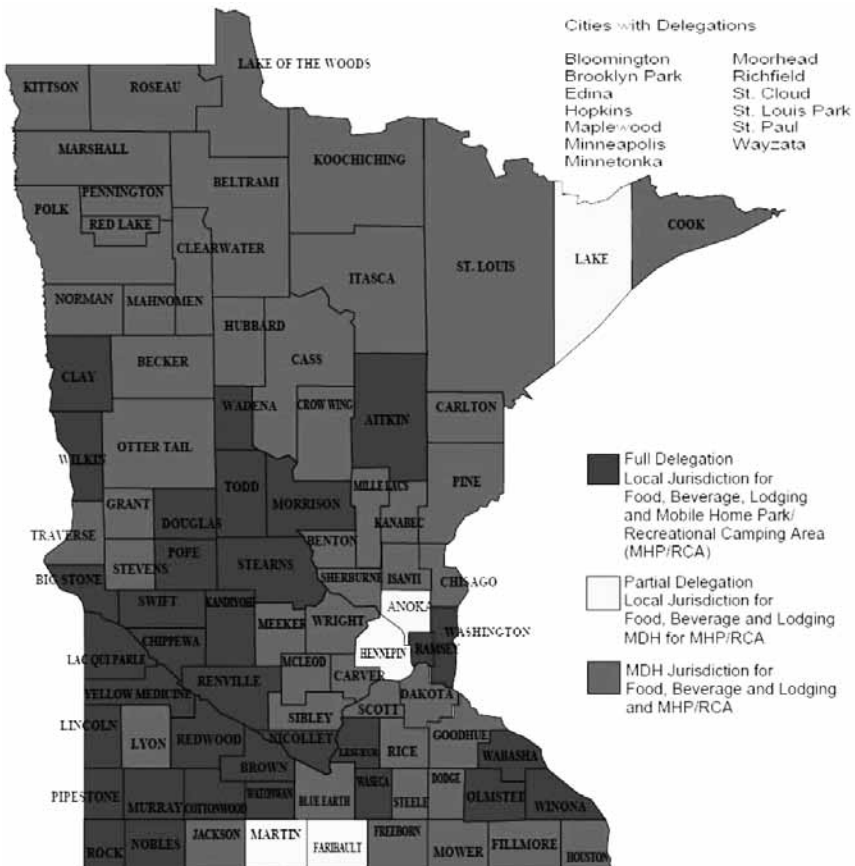


be as much a political process as a procedural one and working to garner support from your neighbors and other local officials will likely be to your benefit.

If you fail to get a CUP your first try, but really want to open a farmstay, don't take it as the final word. If you are diplomatic and flexible, you might be able to modify your plans to render them more in-sync with county planning objectives or you may be able to develop local support that will enable you to get a variance issued that will make your business allowable. At some point, you will need to evaluate how valuable adding a farmstay might be to your business.

Minnesota Department of Health

If you are going to have paying guests spend the night, you are a lodging establishment, according to Minnesota law. This means that you need to be licensed by the State of Minnesota. While the Minnesota Department of Health (MDH) is ultimately responsible for issuing lodging permits, it has delegated licensing authority to many (but not all) Minnesota counties on an opt-in basis. The map below shows which counties in Minnesota have been given licensing authority from MDH. For these counties, you will need to contact your local county licensing authority regarding lodging permits. In all other counties, you will need to obtain your lodging license directly from MDH.



The MDH defines five categories of lodging businesses in Minnesota: Lodging Establishment, Hotel/Motel, Resort, Boarding Establishment, and Bed & Breakfast. Each category specifically defines number of rooms, number of nights guests stay, etc. and each has unique licensing implications. More detailed descriptions can be found on the MDH website at: <http://www.health.state.mn.us/divs/eh/lodging/index.html>.

While a farmstay doesn't neatly fit under any of these definitions provided by the MDH, most would likely be considered a Bed & Breakfast, Resort, or Hotel/Motel by MDH standards. The categories you fall under depend largely on the number of rooms offered, and whether or not your farmstay will serve a fully prepared breakfast.

- A Bed & Breakfast is an owner occupied establishment that offers lodging and breakfast, without a limitation on the number of rooms offered. If breakfast is offered to more than 10 persons, a commercial kitchen is required.
- A Hotel or Motel is a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public for periods of less than one week.
- A Resort is a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public and having for rent five or more cottages, rooms, or enclosures.

Licensing Fees

All lodging businesses are required to be licensed annually and pay an annual fee for their license. Annual licenses expire on December 31 of each year and must be renewed to continue business. Obtaining a license includes:

- applying for a license through the MDH or local jurisdiction (see map on page 37)
- receiving approval for operation, including plan review approval (if required) and passing periodic inspection
- paying the required fee.

The licensing process includes an inspection of the lodging accommodations by either a county official or an employee of MDH. A number of items are reviewed in this inspection, including fire safety, water quality, plumbing, septic system (if applicable), electrical systems, and safety systems. A partial list of the lodging requirements subject to inspection can be found in the Appendix or at <http://www.health.state.mn.us/divs/eh/lodging/rule.html> and should be reviewed when you are planning a farmstay. This list is extensive, including everything from sanitation requirements to bedding and linen requirements. The Minnesota Bed and Breakfast Association's Quality Assured Program can be an excellent resource in helping you navigate these requirements. While there is a charge to go through the program, you receive personalized assistance and mentoring to bring your farmstay to a high standard.

The fee assessed for a lodging license is defined in Minnesota Statute 157.16, subdivision 3. There are different fees assessed to lodging businesses that depend on the type of establishment you have, how many rooms, and what sorts of additional services you offer: food, beverages, swimming pools, etc. Some of the common fees are highlighted below, but when applying for your license, be sure to check with your local licensing official or look up the text of the statute for clarification and the most up-to-date

information. (The Minnesota statutes can be found at most public libraries or can be accessed online at: <https://www.revisor.mn.gov/statutes/?id=157>).

At the time of printing (2011), the Annual Base Fee for a lodging business was \$150. Additional fees are added based on:

- number of rooms (\$10/room);
- type of food service (if offered); \$60 for simple food service, such as continental breakfast, coffee; \$120 for owner occupied bed and breakfasts serving breakfast to fewer than 10 people at one time or small food establishments with just a grill or deep fryer. If you are going to operate a more substantial food business as part of your farmstay, costs go up depending on a number of factors.
- Alcohol service, public pools, spas, private sewers (fees vary)

New construction or extensive remodeling requires fees to review construction plans in addition to the required building permits. To view the full language of the MDH fee structure, please visit <https://www.revisor.mn.gov/statutes/?id=157.16>.

Statewide Hospitality Fee

In addition to the lodging fee, all lodging businesses, as well as food and beverage establishments, pay an annual statewide hospitality fee for each licensed establishment. In 2010, this fee was \$35 per activity. The fee for establishments licensed by MDH is due at the same time the licensure fee is due. For establishments licensed by local governments, the fee is due by July 1 of each year.

Food Service

The simplest type of farmstay does not serve food. However, serving food may be something you want to include, both to attract customers and increase revenues. Food service can be a great addition, but also brings an array of regulations and fees tied to the risks involved. The Minnesota Department of Health is the regulatory body. At a very basic level, you can offer coffee, bottled drinks, and food prepared elsewhere (such as bagels, rolls, prepared yogurt cups). If you are licensed as a bed and breakfast you can prepare breakfast in your kitchen as long as you have your food manager certification, maintain certain standards, pay the applicable fees, and serve no more than 10 people at one time. More sophisticated food service requires commercial equipment, additional fees, and additional requirements for preparing, storing, and serving food. For more information visit MDH's website at <http://www.health.state.mn.us/divs/eh/food/license/>

Posting Requirements

Once you get your required licenses you must post them in a conspicuous place at your farmstay.

Tax Regulations

Minnesota lodging establishments must comply with federal and state laws. In addition to income and property tax, this includes collecting and paying sales tax on lodging and related services. Information on taxes can be found on the Minnesota Department of Revenue's (MDR) website (www.taxes.state.mn.us). MDR has a special sales tax fact sheet for Hotels and Lodging Facilities. This fact sheet (#141) provides specific information applicable to farmstays (and other guest accommodations). Also check to see if your city or county assesses any additional taxes. Some larger cities also collect a local lodging tax, but as of 2010, no small communities collected such a tax.