DAKOTA COUNTY

FOOD SYSTEMS POLICY ANALYSIS
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EXECUTIVE SUMMARY

Diets high in vegetables, fruits, whole grains, and lean proteins help maintain a healthy weight and avoid chronic diseases related to poor diet such as diabetes, cancer, and heart disease. But for many people, eating a healthier diet is not as simple as choosing to eat healthier foods. Some neighborhoods do not have grocery stores that sell healthy foods and sometimes healthy foods are too expensive for people to buy. Some neighborhoods have access to community gardens and farmers’ markets, while others do not. To eat healthier diets, people need better access to healthy, affordable food.

As local communities seek to increase their access to healthy foods, they are finding that many aspects of the local food environment are impacted by a wide range of municipal (city and county) and state laws. For example, state laws create food safety requirements for restaurants and local laws can create zoning restrictions governing where a restaurant or community garden can operate. Understanding how municipal and state laws impact access to healthy food is critical for those seeking to increase access to healthy food.

This policy brief analyzes county ordinances current as of September 2015 that may directly or indirectly impact access to healthy food in Dakota County. While this policy brief focuses primarily on Dakota County policies and ordinances impacting the local food system, it also flags areas where state law may impact relevant activity at the local level. This analysis can be read in whole or in part. Citations are included at the end of this document for further reference.

This brief divides the material into the following sections:

- growing,
- processing,
- getting,
- making, and
- disposing of food.

These sections follow the structure of the food system identified by the Minnesota Food Charter to create consistency and continuity between this local food system analysis and the statewide food system analysis developed in the Charter.¹

¹ A copy of the Minnesota Food Charter is available online at http://mnfoodcharter.com/wp-content/uploads/2014/10/MNFoodCharterSNGLFINAL.pdf. Please see page 17 of the charter for a graphic of the food system.
This policy brief addresses the following question regarding each area of the food system:

- How do Dakota County ordinances impact this area?

This policy brief focuses on Dakota County ordinances impacting the local food system, while also providing a high level summary of state laws that may impact relevant activity at the local level. Lastly, when appropriate, this policy memo identifies potential resources and links to additional information, especially when state law may have an impact on the issue discussed.

When assessing opportunities and barriers that impact access to healthy food in different municipalities and the county, it is important to recognize that there is not a “one size fits all” approach to local government regulations that impact access to food. The ordinances that govern activities in a city or the county reflect different historical, political, environmental, and economic realities. Local governments that are more rural in nature with more land and a stronger farming background will often have different priorities and needs reflected in their municipal ordinances than local governments with greater population densities and more industrial or business enterprises. Those seeking to increase access to healthy food through local ordinances must recognize the different characteristics in a particular locale and be sensitive to the larger local context and priorities when identifying priorities and setting a policy agenda.

Gaps, Barriers and Opportunities

During the course of this project, researchers reviewed local ordinances of cities and the county to identify general themes, including gaps, barriers, and opportunities, that impact the ability of the local community to access healthy food. As discussed in this memo, very few county ordinances specifically addressed activities of the food system. Most of the gaps, barriers, and opportunities addressed below apply to cities in Dakota County rather than the county specifically. Based on a review of existing Dakota County ordinances, researchers determined that current Dakota County ordinances impact access to healthy food through zoning of activities and structures in flood plains and shoreland areas; the use of park and public property for gardening activities and the sale of healthy foods through farmers’ markets and other activities; and the regulation of transient merchants, which can impact the sale of fresh produce and other healthy food. In addition to these areas, Dakota County may also have other regulatory tools that can impact access to healthy food beyond the county’s ordinances, such as through the Dakota County comprehensive plan and the county’s oversight of townships and cities. However, a review of these other areas was outside the scope of this project.

The following discussion provides an overview of some of the key gaps, barriers, and opportunities identified in the municipal ordinances reviewed as part of this project that impact access to healthy food, with specific reference made to issues impacting Dakota County itself. The discussion of gaps, barriers, and opportunities is broken down into general municipal ordinance issues impacting access to healthy food and the different components of the food system identified in the Minnesota Food Charter, including growing, processing, getting, making, and disposing of food.
General Municipal Ordinance Issues

Many cities in Dakota County include a general restriction within the zoning code indicating that if a particular use or activity is not specifically allowed, then that use or activity is prohibited. This type of general restriction can inadvertently restrict or prohibit different activities increasing access to healthy food. For example, if a municipality has this general restriction in its code, all activities promoting access to healthy food, such as community gardens, farmers’ markets, and keeping bees and chickens, must be specifically recognized as permitted or allowed to be a lawful activity. The review of city ordinances in Dakota County included in this project found that many municipal codes that include this general restriction failed to specifically permit a wide range of activities throughout the code that serve to increase access to healthy food. (See the Summary Guide for more information about city specific ordinances in this area.) Cities may want to assess the extent to which the general restriction against any activity that is not specifically permitted may impact activities promoting access to healthy food. This type of restrictive ordinance was not identified in the current Dakota County ordinances.

In addition, many municipal ordinances restrict a property from developing an accessory use or activity on a property before a principle use or structure is established. This type of restriction can impact the establishment of community gardens on vacant lots, especially if gardening activities are only recognized as an accessory use of property. Dakota County ordinances include some discussion of principal and accessory structures in its ordinances. Dakota County only specifically zones areas located in the shoreland and flood zones, so Dakota County can impact access to healthy food by how it regulates activities and structures that are allowed in shoreland and flood zones.

Finally, local ordinances that specifically define and approve certain activities that increase access to healthy food can serve to promote these activities and create a more supportive environment. For example, municipal ordinances can provide a definition of a certain activity or structure to provide direction to community members, such as defining the terms “restaurant,” “community garden,” “or farm animal.” While many of the municipal ordinances reviewed included a broad range of definitions for different activities or structures that impact growing and getting food, a number of local ordinances reviewed never used the defined term. Providing a definition is a start, but the defined term then should be followed with regulation for that use. The regulation may be to allow the use, such as gardening, in all zones, or the regulation may be to require fencing for community gardens. Having a term defined and used within the code not only helps residents, businesses, and would be entrepreneurs, understand the local requirements but also proactively establishes parameters for addressing needs for healthy food within a community.
Growing Food

Gardening

Allowing backyard and community gardens as permitted uses within, at a minimum, all agricultural and residential zones has the effect of promoting these uses by identifying them. Additionally, by specifically identifying and approving community gardens, the general restriction found in many municipalities for unidentified uses is removed. Including vegetable gardens and production in the definitions of backyard and community gardens as well as urban agriculture, landscaping, agriculture, agricultural pursuits, and farming can clarify ambiguities within existing regulations. Finally, establishing community garden regulations can provide support to these activities while also ensuring these activities are appropriately used throughout a municipality.

For example, by recognizing community gardens as a principle use on a piece of property, municipalities can encourage the creation of community gardens as a proper use of vacant lots. In addition, cities may want to assess allowing the sale of products on the garden site where the produce is grown. These types of regulations can allow neighborhoods to establish gardens that not only increase access to healthy food but also promote livable neighborhoods within a city.

Farming

Different municipalities take a wide range of approaches to the definition and regulation of farming within the municipal borders. At the same time, the term “farm” is also used in some municipal ordinances out of context, without a specific or clear definition in the ordinance. Municipalities may want to assess their approach to governing farms in the municipal limits and make sure that the definition of farm is consistent with other municipal ordinances.

Keeping Animals

By identifying allowable animals, such as bees and chickens, and developing appropriate restrictions, municipalities can enable residents to increase their access to foods like eggs and honey. Some municipal codes restrict the total number of permits allowed for chickens or beekeeping. In addition, some codes include limits on the duration of the permit and the opportunity to renew existing permits. These types of regulations can discourage community members from pursuing these activities even when the municipal code allows the activity in certain areas. Chicken owners who cannot be assured of maintaining their permit from year to year may have less incentive to invest in coops that provide livable, healthy chicken environments, which also reduce nuisance issues that are a concern to neighboring residents.

Additionally, many municipalities do not address beekeeping. Home beekeeping can enhance vegetable and flower garden pollination, give residents access to local honey, and help develop an economic stream through individual sales to other community members.
Arbors, Trellises, Pergolas, Planting Boxes, and Raised Beds

Most municipalities did not include definitions for these types of gardening structures. These structures are generally too small to warrant any specific regulation or permit requirements. However, municipalities should ensure that any general restriction ordinances that prohibit any structures not specifically permitted do not inadvertently prohibit the use of these gardening structures.

Greenhouses and Hoop Houses

Greenhouses and hoop houses generally were either not addressed or addressed only as a commercial use in the municipal ordinances reviewed. Small-scale hoop houses and greenhouses increase the growing season for individual or community gardeners and positively increase the amount of healthy food that a garden is able to produce. Municipalities that do not include specific regulations or direction about the use of commercial or private hoop houses or greenhouses may want to assess the interest in these gardening structures in their community and how local regulations can support these types of structures and the gardening activities they allow.

Processing Food

Food processing facilities can provide an important resource for local food producers to extend their market and provide new business enterprises and employment to local communities. None of the cities or the county ordinances reviewed in this research specifically identified food processing facilities within their ordinances. While licensing of these types of facilities is generally done by the state, local zoning regulations can identify where these types of facilities may be located within a city. In addition, economic development policies can promote these types of facilities on a small as well as large scale.

Getting Food

Seasonal Produce/Farm Stands

Many cities did not define seasonal produce stands even though seasonal produce or farm stands are explicitly allowed or restricted in the code. In addition, licensing requirements for mobile food vendors can also impact the sale of seasonal produce. Some municipal codes reviewed limited the total number of licenses for mobile vendors without indicating if these limitations applied to seasonal produce stands that may operate out of a vehicle. Municipalities may want to assess how their local code defines and regulates both seasonal produce stands and mobile food vendors. Some code regulations may create unintended barriers that inhibit the ability of local producers to sell their produce or negatively impact the ability of mobile food vendors from selling fresh produce and other healthy food items. In addition, it appeared that the regulation of transient merchants, by the county and cities, could inadvertently impact the sale of local produce by farmers’ selling their produce in different locations. Assessing the impact of transient
merchant regulations may be needed to ensure these regulations do not create additional regulatory barriers for the sale of seasonal produce.

Farmers’ Markets

Farmers’ markets were addressed at least minimally by some cities but not by the county. However, many municipal ordinances did not reflect the growing interest and success of farmers’ markets as a key healthy food source for local communities and the different ways that farmers’ markets are partnering with community organizations, such as churches, to increase access to fresh produce. For example, municipal ordinances that restrict the sale of goods on required off-street parking can create barriers to organizations or businesses that would like to host a farmers’ market, such as churches. Organizations or businesses hosting farmers’ markets in their parking lots do not need the parking spaces during the hours of the farmers’ market operations. Accordingly, restrictions against the use of these required parking spaces for the sale of goods from a farmers’ market is unnecessary. Municipalities may want to assess how their municipal code can support the expansion of farmers’ markets in different zones and on different types of properties.

Restaurants

The municipal codes reviewed for this project take widely different approaches to how restaurants are regulated. The definitions used by different municipalities for restaurants range from very general definitions covering all restaurants to extremely specific definitions identifying different types of restaurants. Specific restaurant definitions identified by this research include: drive-in, fast food, delivery or take-out, full-service, traditional, and cafeteria, amongst others. Many municipalities then use their zoning codes to determine where different types of restaurants are allowed, including some with restrictions on how close different types of restaurants can be located to schools, churches, or other community features within different zones.

Municipalities may want to assess how they define different types of restaurants and where a specific type of restaurant can operate. Creating regulations that encourage restaurants with healthier menus in areas community members frequent can greatly enhance the access community members have to healthier food and reduce access to unhealthy food.

Mobile Food Vendors

Mobile food vendors have been addressed to varying degrees within the cities assessed. Some cities identified specific zones where mobile food vendors can operate and also limit the number of licenses and times of operation for these vendors. While mobile food vendors are generally licensed by the state, cities that have not addressed mobile food vendors may want to assess how their local code can encourage mobile food vendors focused on healthy food options. For example, some social service agencies are exploring how to increase access to healthy food for low-income residents through mobile food shelves and mobile grocery stores. Municipal ordinances that restrict sales or giveaways from vehicles parked on city streets or require off-
street parking for food vendors can create obstacles to the ability of social service agencies to provide access to healthy food for low-income residents.

**Transient Merchants**

All municipal codes reviewed included some regulation of transient merchants. The county is also often involved in regulating transient merchants. However, many municipalities and the county did not specifically indicate how or if the regulations governing transient merchants impacted vendors or merchants selling fresh farm products or other healthy food items. At the same time, some municipal ordinances specifically applied the regulations governing transient merchants to those selling fresh farm products and other healthy food items. Municipalities may want to assess how regulations governing transient merchants impact seasonal produce vendors and determine if any changes need to be made to ensure that regulations governing transient merchants do not inadvertently burden vendors selling fresh farm produce or other healthy food items.

**Grocery Stores**

The municipal codes reviewed for this project take widely different approaches to how grocery stores are regulated. Many municipalities do not define grocery store, even though the municipal code may specify the zones in which a grocery store can operate. In addition, the municipal codes reviewed vary greatly in regards to where grocery stores are allowed to operate. Some municipal codes include very strict limitations on where a grocery store can operate. These types of restrictions can inhibit the ability of local neighborhoods to have access to healthy food retail options if grocery stores are only allowed in zones far from residential areas.

Municipalities may want to consider how they define and regulate grocery stores and other food retail, and create criteria for grocery stores and other food retail that emphasizes healthy food as part of the food retail operations. In addition, municipalities may want to assess any limitations on where grocery stores can operate to ensure that residential neighborhoods, including those with higher numbers of low-income housing, and other areas where community members frequent, such as business districts, have access to grocery stores and healthy food retail.

**Making Food**

While no city in this policy analysis addressed commercial kitchens, commercial kitchen space is needed for many types of food production. One way that cities may address this is by making for-rent commercial space available within community centers, allowing this type of use in community buildings and on public property, or even by identifying the zones where commercial kitchen incubators businesses are allowed.

**Disposing Food**

Overall, composting for food waste was not adequately addressed by most cities. When composting was addressed, it was typically only for yard waste. At the same time, many
municipalities only recognized food waste as garbage or refuse. Establishing regulations for how compost is defined and recognizing food waste as part of the definition of compost can improve the ability of residential, institutional, and commercial properties to reduce this type of waste from the municipal waste stream while also providing an important resource to gardeners and urban agriculture initiatives.

Project Background

In April 2015, using funding from the Minnesota Department of Health’s Statewide Health Improvement Program provided by the Dakota County Public Health Department, the Open Door contracted with the Public Health Law Center (Center) to analyze how the municipal and county codes impact the local food system to support the Open Door’s efforts to increase access to healthy food for its clients and Dakota County communities. This project analyzes the impact the municipal codes in the following municipalities have on access to healthy food:

- Apple Valley,
- Burnsville,
- Dakota County,
- Eagan,
- Farmington,
- Hastings,
- Inver Grove Heights,
- Lakeville,
- Mendota Heights,
- Rosemount,
- South St. Paul, and
- West St. Paul.

The Center developed individual memos for each of these municipalities as well as this memo for Dakota County. In addition, the Center developed a Summary Guide providing an overview of key findings regarding the city ordinances in Dakota County reviewed. The Summary Guide walks through 15 different issues and compares how each of the municipalities researched for this project governs a particular issue.

For some topics, such as on-site composting, the State of Minnesota has also established state-wide regulations governing the activity or practice. For the most part, Minnesota statutes and regulations do not regulate personal activities related to urban agriculture within municipal boundaries, especially if the activities are on private land, however, there are several activities that have received state attention, including:

- Structures and buildings
- On-site composting
- Beekeeping
- The sale of personally grown produce
- Food safety
- Food retail (particularly the sale or processing of food)
Farmers’ markets

A discussion of state law is beyond the scope of this project. However, the following resources provide an overview of the key state laws impacting access to food that may overlap with the issues discussed in this memo:

- **Starting a Food Business in Minnesota (2008),** MINNESOTA DEPARTMENT OF AGRICULTURE, [http://www.mda.state.mn.us/~media/Files/food/business/startingfoodbiz.ashx](http://www.mda.state.mn.us/~media/Files/food/business/startingfoodbiz.ashx).

In addition, information about some recent changes to Minnesota state law not included in these resources has been provided in Appendix A, below.

**Research Process**

The Public Health Law Center identified a list of relevant “search terms” in consultation with The Open Door and Dakota County Public Health that describe activities or structures likely to impact the growing, processing, and selling of food. (See Appendix A) Search terms used in the city policy reviews did not translate to the county policy review as a result of the vastly different regulatory framework in which the County operates. Rather, researchers read each of Dakota County’s ordinances for applicability to the scope of this project.

The Public Health Law Center identified the relevant Dakota County ordinances that have bearing on the activities or structures likely to impact the growing, processing, getting, making, and disposal of food. Researchers used the Dakota County ordinances, available publicly at [https://www.co.dakota.mn.us/LawJustice/Ordinances/Pages/default.aspx](https://www.co.dakota.mn.us/LawJustice/Ordinances/Pages/default.aspx). Each ordinance was reviewed for applicability to the topics in this brief. If a relevant match was found, the regulatory language is included in this memorandum. If a term has been given a definition by the county, that definition is highlighted. Some Dakota County ordinances were not relevant to this project and have not been discussed.

**Appendices**

This policy brief has appendices included at the end of the document. These appendices a list of the search terms used as part of the city research process in addition to additional information regarding some state laws exempting certain activities from state licensing requirements for the sale of food. See: Appendix A: Search Terms and Appendix B: State Exemptions from State Food Handlers Licensing Requirements
GENERAL INFORMATION

Before analyzing specific activities or structures impacting access to healthy food in Dakota County, this memo briefly discusses some general concepts providing context impacting the ability of Minnesota to access healthy food, including:

- The Minnesota Food Charter
- State Laws Impacting the Food System
- State and Local Agency Oversight
- Policy Levers Used by Local Governments

The Minnesota Food Charter

The Minnesota Food Charter is described as:

“[A] roadmap designed to guide policymakers and community leaders in providing Minnesotans with equal access to affordable, safe, and healthy food regardless of where they live.

The strategies for policy and systems change described in the Food Charter are designed to reduce the risk and cost of obesity and diet-related diseases, like diabetes and heart disease; conserve state resources; and boost economic prosperity.

The Food Charter is intended to guide planning, decision-making, and collaboration for agencies, organizations, policy-makers, and public and private entities across the state.”

The Minnesota Food Charter provides strategies for policy, systems, and environmental change to increase access to healthy food. The information included in the Minnesota Food Charter further informs the Center’s analysis of Dakota County’s regulation of different components of the food system. The Public Health Law Center used the Minnesota Food Charter to structure the analysis of Dakota County’s ordinances. The Food Charter breaks the food system into seven parts: (1) grow, (2) process, (3) distribute, (4) get, (5) make, (6) eat, and (7) dispose. The Center uses the broad categories of growing, processing, distributing, getting, making, and disposing to frame each section of this brief.†

† This analysis does not include the category of “eating” as local governments do not regulate this area as directly as the other areas identified.
For more information:
The Minnesota Food Charter is available online at http://mnfoodcharter.com/.

State Laws Impacting the Food System

A number of Minnesota laws impact the food system and authority municipal and county governments have to regulate a certain area. Areas impacted by state law include, but are not limited to:

- Building and plumbing requirements,²
- Sale of personally grown, unprocessed agricultural products,³
- Licensing of food establishments,⁴
- Food safety standards,⁵
- Sale of products prepared in unlicensed kitchens,⁶ and
- Food sampling at farmers’ markets and other community events.⁷

A discussion of state laws impacting the food system is beyond the scope of this project. Additional information on state laws impacting the local and regional food system can be obtained at:


In addition, information about some recent changes to Minnesota state law not included in these resources has been provided in Appendix B, below.
State and Local Agency Oversight of Food System

Minnesota state and local government entities have varying degrees of authority to establish laws that directly or indirectly impact the local food system. Understanding the authority that state and local governments have to regulate different aspects of the food system is key for increasing healthy food access in Minnesota.

Minnesota State Agency Oversight of Food System

Minnesota law gives authority to regulate different components of the food system to a range of Minnesota state agencies. The most well-known include the Minnesota Departments of Health (MDH) and Agriculture (MDA). Specifically, these agencies have the power to create, implement, and enforce rules governing food safety through authority granted by the Minnesota legislature. The following table provides a brief overview of the different roles MDA and MDH have in regulating the food system.

<table>
<thead>
<tr>
<th>AGENCY</th>
<th>SOURCE OF FOOD</th>
<th>REGULATORY AUTHORITY</th>
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</thead>
<tbody>
<tr>
<td>MDH</td>
<td>Cafes</td>
<td>Licenses and inspects food establishments⁸</td>
</tr>
<tr>
<td></td>
<td>Restaurants</td>
<td>Enforces Minnesota Food Code⁹</td>
</tr>
<tr>
<td></td>
<td>Bars</td>
<td>Provides food safety and food handling education and training¹⁰</td>
</tr>
<tr>
<td></td>
<td>Hotels &amp; motels</td>
<td>Investigates outbreaks¹¹</td>
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<td></td>
<td>Cafeterias</td>
<td>Tracks and monitors foodborne illness¹²</td>
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<td>Operates the Minnesota Foodborne Illness Hotline¹³</td>
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<td></td>
<td>Releases reports and summaries of foodborne illness outbreaks in Minnesota¹⁴</td>
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<td></td>
<td></td>
<td>Coordinates response to foodborne illness outbreak with other state and local government agencies</td>
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<td></td>
<td>Grocery stores</td>
<td>Licenses and inspects certain food retailers, dairies, and meat processors</td>
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<tr>
<td></td>
<td>Bakeries</td>
<td>Licenses and inspects food manufacturers, wholesalers, and retailers¹⁵</td>
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<tr>
<td></td>
<td>Egg handlers</td>
<td>Enforces Minnesota Food Laws and the Minnesota Food Code¹⁶</td>
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<tr>
<td></td>
<td>Dairy farms</td>
<td>Enforces state standards relating to food quality, labeling, and advertising¹⁷</td>
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<tr>
<td></td>
<td>Delis</td>
<td>Investigates complaints regarding questionable food products or food sales practices¹⁸</td>
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<tr>
<td></td>
<td>Food manufacturers</td>
<td>Cooperates in foodborne illness outbreak investigation when involving MDA-regulated facilities or food that is commercially distributed in Minnesota</td>
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<tr>
<td></td>
<td>Wholesale food dealers</td>
<td>Tests food products and environmental samples for the presence of pathogens or deleterious substances</td>
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<tr>
<td></td>
<td>Meat &amp; poultry processors</td>
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</table>

Please note, there are a number of areas that MDA is involved in responding to foodborne illness beyond those mentioned in this resource. Please see [http://www.mda.state.mn.us/](http://www.mda.state.mn.us/) for more information about the agency’s specific role.
Local Government Oversight of Food System

In Minnesota, there are several mechanisms through which a local government may be able to regulate the food system. For example, MDA and MDH have delegated some of their authority to regulate different aspects of the food system to a few Minnesota municipalities, including the authority to license food establishments and oversee food safety requirements. This authority is referred to as “delegated authority,” because the Minnesota Department of Agriculture or Minnesota Department of Health must delegate powers to the specific municipality or county. Local governments also have the authority to establish zoning and permitting requirements to impact different aspects of the food system through their municipal codes.

At this time, Dakota County does not have delegated authority to regulate food establishments, retail establishments, or food facilities. As a result, this memorandum focuses on how the county regulates the food system through its ordinances.

Local Government Ordinances Regulating the Food System

For many local governments, local ordinances and policies can be an effective way to increase access to healthy, affordable food. Local governments can change zoning laws to make it easier to create new grocery stores, farmers’ markets, and community gardens. New regulations and incentives can help existing stores increase the number and variety of healthy products they sell.

Minnesota state law specifically recognizes that local governments have the power to enact ordinances and other regulatory tools. Understanding the different types of legal tools used by county government that impact the food system is important. These tools, also called “official controls,” can be used to increase access to healthy food. Minnesota state law gives local governments a broad range of powers over different aspects of the local food environment.

Dakota County uses a range of regulatory tools that can impact access to healthy food, including:

- County ordinances,
- County policies,
- Licenses,
- Permits,
- Land use planning and zoning,
- Variances and conditional use permits, and
- Regulation of structures.
While Minnesota state law identifies specific areas over which local governments have authority, this language is also non-exhaustive. Minnesota state law gives local county government additional power to promote “health, safety, morals, and general welfare.” This language acts almost as a catch-all, being very broad and allowing local governments to regulate further activities when reasonably classified within this general welfare provision.

**Licenses**

Generally, licensing is used as a regulatory mechanism through which “local governments promote the public welfare and protect public health, safety and welfare.” Local governments generally have the power to license through state law, giving local governments the power to exercise police powers to protect and promote the public welfare.

Dakota County does not require general business licensing or registration for all businesses. However, Dakota County has established business licensing requirements for transient merchants and refuse haulers.

**Permits**

Permits are another policy tool used by local governments to regulate the food system generally, and certain types of food enterprises. Generally speaking, a permit is “a written license or warrant, issued by a governing body, to empower the permit holder the authority to take a specified action.” Similar to a license, local governments can tailor permitting provisions to support access to healthy food. Permits often used by local governments include:

1. Building permits allowing for some sort of construction or structural repair,
2. Zoning permits that allow for certain activities, such as farmers’ markets, to take place in a certain designated zone, and
3. Special permits that can allow for residents to keep certain animals.

Dakota County uses permits in the context of building and zoning, as well as:

- Shoreland permit
- Floodplain permit
- Well permit
- Assembly permit
- Landscaping and driveway maintenance, and
- Utility permit
**Land Use Planning & Zoning**

Land use planning and zoning are fundamental tools that both city and county governments can use to guide and control the use of land and manage growth in the municipality. Local governments use different policy mechanisms to establish and implement plans for land use in the community, including comprehensive plans, land use agreements, and zoning regulations. Land use planning policies allow a local government to identify and develop goals and strategies for how the land within its jurisdiction is developed and used. The Planning, Development and Zoning Chapter of Minnesota Statutes authorizes counties to conduct planning and zoning activities to guide improvements and future development. This includes the authority to prepare, adopt and amend a comprehensive municipal plan as well as the official controls to implement that plan. Dakota County has the authority to conduct planning and enact zoning ordinances.

Zoning is a tool that allows counties to divide its boundaries into zoning districts, each of which have certain restrictions and/or characteristics. Dakota County has the authority to enact planning and zoning laws. For more information on zoning, please see the Association of Minnesota Counties informational memo Land Use Management (http://www.mncounties.org/Publications/FYIs/PDF/Land_UseMgmt08.pdf).

**Comprehensive Planning**

The County Planning Act (CPA) of 1959 is the basis of the authority that counties have to complete comprehensive planning. As a policy, the legislature desired that counties would use comprehensive planning to promote the health, safety, morals and general welfare of their residents.

The cities, townships, and counties that make up the seven-county metro-area are so interdependent, that the legislature determined that these local jurisdictions would be required to complete comprehensive planning and to coordinate those plans to “protect the health, safety, and welfare of residents” and also to ensure “orderly, and economic development.” Townships in Dakota County may choose to prepare comprehensive plans for their jurisdictions or delegate their planning authority to the county by agreement.

In the metropolitan development region, state law has placed most of the seven-county “metropolitan area” under the jurisdiction of the Metropolitan Council, a “public corporation and political subdivision of the state.” State law establishes several means for the Metropolitan Council to guide urban growth and development, and includes local-level procedures and requirements for land use planning.

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† The statute says it is for counties having a population of less than 300,000 according to the 1950 federal census. According to the 1950 census, the only counties with a population of 300,000 or greater were Hennepin and Ramsey Counties.
The Metropolitan Land Planning Act requires every local government – counties, cities, and towns – in the “metropolitan area” to develop a comprehensive plan, and to systematically review it every ten years. This “decennial review” is a multilayered process, and begins several years before the actual deadline; the next review is due in 2018. Dakota County is required to review its comprehensive plan under this law.

Comprehensive plans provide a vision and direction for future growth and development for a municipality. These plans guide the development of municipal “official controls” regulating activity and land use within the municipal boundaries and regionally. A review of Dakota County’s comprehensive plan is outside the scope of this project. However, any effort to increase access to healthy food in Dakota County should consider the impact of the current comprehensive plan review that will be completed in 2018. Coordinating comprehensive plan assessment and revisions with identified needs and opportunities to increase access to healthy food throughout Dakota County’s municipal code is essential to ensure the comprehensive plan reflects the broader needs of the community to have access to healthy, affordable food. Dakota County’s current comprehensive plan that is under review is available on the city’s website at: https://www.co.dakota.mn.us/Government/Planning/CompPlan/Pages/default.aspx.

A discussion of the impact that land use planning has on food production and the county’s role in preserving agricultural lands in Minnesota is available at:


Zoning

Zoning is a tool through which cities and counties can implement their comprehensive plans. Zoning allows local governments to divide their boundaries into zoning districts, each of which have certain restrictions and/or characteristics.

Dakota County currently only has zoning ordinances impacting activities and structures impacting shoreland and floodplain management.

Variance and Conditional Use Permits

Local governments that have enacted zoning ordinances also use variances and conditional use permits as mechanisms for property owners to request deviations from land use policies. Under Minnesota statute, a variance can be used when the use would be a departure from the standard created by ordinance. In contrast, a conditional use can be requested for a use that is only permitted in a zone with certain conditional requirements on a case-by-case basis.
Regulating Structures

A wide range of built structures are used throughout the food system, including both permanent and temporary structures responding to the needs of a range of individuals and businesses involved in growing, processing, selling, and disposing food. These structures include, but are not limited to, sheds, hoop houses, greenhouses, fences, processing facilities, farm stands, and composting facilities. In Minnesota, structures are regulated by a range of Minnesota state laws and municipal codes, with Minnesota’s state laws creating minimum requirements for structures to protect health, safety and welfare. Municipal ordinances often address structural issues that the state building code did not address but are important to the municipality. State law and municipal codes often work together to create a comprehensive legal framework to govern different types of structures used throughout the food system.

For example, the State Building Code sets requirements for temporary and permanent structures to “establish reasonable safeguards for health, safety, welfare, comfort, and security.” Permanent and temporary structures are required to meet minimal structural requirements, and permanent structures must meet additional requirements including snow load requirements. At the same time, agricultural buildings on agricultural lands are exempted from certain provisions of the state building code. The Minnesota Building Code also exempts certain small-sized, one-story accessory structures from permit requirements prior to being constructed, altered, or repaired.

While some structures are exempt from the state building code, in many circumstances local governments retain the authority to apply more restrictive requirements in their ordinances. For example, a municipality may require a zoning permit for certain structures even if the structure is exempt from obtaining a building permit under the state building code. Local governments in Minnesota often adopt the state building code’s minimum requirements and also regulate structures that are not covered under the state building and plumbing codes, such as structures below the size threshold covered by the state building code. In addition, many local governments have set standards for structures taking place within their boundaries on different types of properties. To illustrate, many cities establish standards for all structures considered “accessory” or that are on a property in addition to the “principal” structure (i.e. a chicken coop that is on the same property as a residential home or a community garden shed on the same property as a church). Often times, standards for accessory structures may vary depending on the zoning designation for that property.

Depending on the language in the municipal code, regulations governing different types of structures may burden certain activities impacting access to healthy food, especially if the regulations are overly broad and unintentionally capture inappropriate or unintended structures and activities.
The cities and townships in Dakota County have the authority to establish zoning and land use regulations and often use this authority through a permitting scheme impacting what activities are allowed. Dakota County issues building and zoning permits, which apply to townships within designated shoreland and floodplain zones. For properties in an incorporated city limit, the property owner must obtain a permit from the incorporated city. For properties in a township, the property owner may need to obtain a permit from the township and the County if the property is within the area specified by the County’s Shoreland Zoning and Floodplain Management Ordinance. For more information on building and zoning permits, please visit https://www.co.dakota.mn.us/Permits/BuildingZoningPermits/Pages/default.aspx.

County Definitions

- **Structure** means any building or appurtenance, including but not limited to buildings, factories, decks, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria of this ordinance and other similar items, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, tower poles and other supporting facilities.

- **Principal use or structure** means all uses or structures that are not accessory uses or structures.

Dakota County Government Structure

Counties were originally established to be “administrative arms of the state” so that they could administer services pursuant to state and federal law. Minnesota counties collect property taxes, build and maintain roads and bridges, and manage land records. Over time, Minnesota counties have been given more authority to function like a local government. Counties are often described as having two types of functions: (1) to act as a local government and (2) to be the “administrative arm of the state.”

Minnesota’s Constitution gives the state legislature the authority to create, consolidate, organize, and dissolve local governments, including counties. Local governments, including counties and cities, possess only the powers granted by state statute or implied as necessary to carry out legislatively conferred powers.

Minnesota law governs counties and grants counties their powers, duties, and privileges. This means that county governments must receive clear authority via state statute to provide a service or regulate a business or activity.

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§ For more information on state-local relations, please see the House Research Short Subject at http://www.house.leg.state.mn.us/hrd/pubs/ss/sslctrel.pdf (August 2014).
**Relationship between Municipal and County Government**

In Minnesota, state statutes grant city governments much broader authority to exercise power than county governments. Statutory cities have authority under state law to protect and promote general welfare, such as “the prevention of crime, the protection of public and private property, the benefit of residence, trade, and commerce, and the protection of health, safety, order, [and] convenience.” In Minnesota, counties do not have the same authority over “general welfare;” however, state statute does provide some authority authorizing counties to enact ordinances that protect public health. Specifically, state law states that:

“A county board may adopt ordinances for all or part of its jurisdiction to regulate actual or potential threats to the public health . . . unless the ordinances are preempted by, in conflict with, or less restrictive than standards in state law or rule.”

**While state law makes distinction between cities and townships, any discussion of townships is outside the scope of this project.**
Local governments can encourage local food production by evaluating whether their municipal ordinances support or burden activities and structures that are necessary to grow and cultivate food.

**Gardening**

Gardens increase access to fresh vegetables, provide opportunities for physical activity, teach both adults and children about the origins of their food, and promote healthier eating behaviors. As gardening opportunities increase, advocates must often address legal and policy issues that affect the development and maintenance of gardens in local communities. These issues include access to water, composting efforts, land use planning and zoning considerations, liability issues, and the organizational structure of the gardens.

**Farming**

Local farms and farmers are part of the local community by providing access to larger quantities of healthy foods. These products may be sold at farm stands on the farm itself, at farmers’
markets, or even through local grocers. Buying fresh fruits and vegetables that are in season, from local farmers, is often more economical than purchasing from a grocery or convenience store because these foods are usually available in large amounts and are perishable, so products are more likely priced to sell.

Keeping Animals

Raising chickens and beekeeping are just two types of activity that allow community members to become more involved in and engaged with the production of their food. Local governments are increasingly allowing for beekeeping and keeping small farm animals for personal use or sale of animal products, such as meat, eggs or honey, within a municipality. Amendments to zoning and animal ordinances allow residents to keep small farm animals and bees in a manner that prevents nuisances to occupants of nearby properties and prevents conditions that are unsanitary or unsafe.

Chicken coops protect chickens and other fowl from the elements and provide a space for the fowl to roam and exercise. Allowing chicken coops through ordinances, amendments to zoning, and animal ordinances allow residents to keep poultry in a manner that prevents nuisances to occupants of nearby properties and prevents conditions that are unsanitary or unsafe.

Fences

Fencing is often an integral component of many agricultural and gardening activities. For example, community gardens may be required to install a fence to provide protection from animals, define the garden’s parameters, and minimize vandalism and trespassing on community garden property. Ordinances that allow community gardens to install permanent fencing may encourage gardens, promote community acceptance of local gardening efforts, and improve the long-term success of a community garden.

Greenhouses and Hoop Houses

Greenhouses and hoop houses (also called “high tunnels”) are structures that extend the growing season and protect plants from animals and inclement weather. (While hoop houses are generally a type of semi-permanent structure made up of several hoops or bows that are covered in a heavy plastic, some hoop houses may be a principal structure and be built as a permanent building.) These structures can be either an accessory or principal structure, depending on their use or the other uses of the property. If the greenhouse or hoop house is for personal use and is secondary to the main structure, it would likely fall into a category of a type of accessory structure. However, greenhouses and hoop houses that are for retail or commercial purposes could also be the principal structure on a property. Zoning and building regulations that allow for these types of buildings can support both personal gardening efforts as well as promote local business
enterprises and the local food system by providing sources of plants and extending the growing season.

- University of Minnesota’s Minnesota High Tunnel webpage, http://hightunnels.cfans.umn.edu/
- The City of Minneapolis adopted regulations governing hoop houses and greenhouses in March 2012. The City of Minneapolis defined a hoop house as “a temporary or permanent structure typically made of, but not limited to, piping or other material covered with translucent material for the purpose of growing food or ornamental crops. A hoop house is considered more temporary than a greenhouse.” For more information about those regulations, visit: http://www.minneapolismn.gov/sustainability/homegrown/WCMS1P-130152

How do Dakota County ordinances impact growing food?

Dakota County ordinances impact growing food in two key areas – zoning for shoreland and flood plain areas and the use of public park lands. Dakota County has authority to establish zoning and is required to prepare a comprehensive plan for the county. In addition, the county has the authority to adopt official controls that further the purpose and objectives of the plan. The county can also determine what types of activities are allowed on public parkland.

**State Law Definition**

*Official control.* means legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of a municipality or a county or any part thereof or any detail thereof, and are the means of translating into ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include but are not limited to ordinances establishing zoning, subdivision controls, site plan rules, sanitary codes, building codes, housing codes, and official maps. (Minn. Stat.)

Dakota County has adopted zoning only for the purpose of shoreland and floodplain management. Only within these zones has the county adopted official controls that regulate the structures and activities that relate to the growing of food. Otherwise, the county defers to the cities and townships to issue building permits, generally, within the scope of the city or township’s land use and zoning authority.

A report recently issued by Homegrown South identified barriers to small and medium size farming operations that are directly impacted by land use and zoning authority of the county and townships.

“Farmers identified several barriers for access to the land that they farm, including state laws and local policies. One example referenced was an ordinance in neighboring Scott County that only allows four chickens per acre unless in a certain area, which limits the ability for a
small farmer to scale production. Another example was a recent circumstance where the construction of temporary shade shelters in smaller townships in the South Metro resulted in rapid changes to zoning policies that prohibited these types of structures used by Hmong farmers in the area. There was an overwhelming sentiment that government regulations are not written to support small-scale farmers and thus create hurdles to success for small food producers. Farmers renting land are in the difficult position of having to limit further investments in building out their farming infrastructure and planning for long-term growth. It is important to reiterate here that the land a lot of farmers are seeking is non-homestead land. Many growers in Dakota County live in another area, like Saint Paul, but grow in the suburbs. The importance of gaining long-term access to affordable land was a common refrain.”

**Shoreland and Floodplain Management - County Ordinance 50 (2011)**

County Ordinance 50 regulates the uncontrolled use of shoreland within the unincorporated area of the county, specifically in relation to the use, development, preservation, and enhancement of the shoreland and public waters. Areas that have been designated within a floodplain district are also regulated by this code.  

Ordinance 50 controls agriculture as a permitted use as follows:

**16.08 SPECIAL PROVISIONS FOR COMMERCIAL, PUBLIC/SEMIPUBLIC, AGRICULTURAL, FORESTRY AND EX extrACTIVE USES**

**B. AGRICULTURE USE STANDARDS.**

1. *The shore impact zone for parcels with permitted agricultural land uses is equal to the area between the ordinary high water level and a line parallel to and 50 feet from the ordinary high water level.*

2. *In all lake and river shoreland areas, general cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or managed under an approved conservation plan consistent with the field office technical guides of the Natural Resource Conservation Service (U.S. Department of Agriculture) or the SWCD.*

3. *Where allowed by this ordinance, animal feedlot and grazing operations must meet the following standards:*
   
   a. *New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins; and*
   
   b. *Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed by conditional use permit if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.*

4. *New feedlot operations must have a manure management plan approved by the*
19.02 FLOODWAY DISTRICT

A. PERMITTED USES. The permitted uses in the Floodway District are as follows:

1. Agricultural Related Uses:
   - general farming
   - pasture
   - grazing
   - outdoor plant nurseries
   - horticulture
   - truck farming
   - ential lawns
   - forestry
   - sod farming
   - wild crop harvesting
   - gardens
   - resid

Park Use - County Ordinance 107 (1997)

★ **Special use.** "Special Use" means the use of an area or facility in a County Park for the holding of tournaments, entertainment, or exhibitions; or, in a manner not customary or usual or normally allowed for that area or facility.77

★ **County park.** "County Park" means those parks, park reserves, trails and other areas within the County of Dakota under the control of the Board of Commissioners and designated by them as being a part of the County Park System.78

County Ordinance 107 establishes rules governing the use of county park land and facilities. The ordinance establishes a permitting requirement for the following uses:

- Special use of grounds and facilities;
- Use by fifty (50) or more people;
- Use for any commercial purpose;
- Use of signage or advertisement; and
- Use of shelters, tents, and canopies.79

While this ordinance does not specifically address gardening or food production activities, it does allow for a broad range of different uses of park property, so long as a permit is obtained. Depending on the nature of the park land and community interest, Dakota County may want to assess if community gardening or other food production activities would be an appropriate use of any parkland or public space.

Additional information:

See Dakota County’s Farmland and Natural Areas Program at:
https://www.co.dakota.mn.us/Environment/LandConservation/FNAP/Pages/default.aspx.
**PROCESSING FOOD**

Food processing is an important part of the food system. Apple juice, bread, smoked and cured meat, cereal bars, and chips are just a few of the examples of the varying types of foods that require processing before reaching a final consumer.

Wholesale food processors are generally governed by Minnesota state law and regulated by the Minnesota Department of Agriculture.\(^80\) The Minnesota Department of Agriculture has issued rules governing a wide range of food processing activities.\(^81\) The Minnesota Department of Agriculture generally incorporates applicable regulations from the U.S. Food and Drug Administration’s regulations into Minnesota’s legal requirements. State law creates the minimum standards regulating food processing facilities in Minnesota. While some local Minnesota municipalities may have limited authority over food processing facilities in their jurisdiction, local authority is limited to those powers delegated to the local government by MDA.

**State Law Definitions**

- **Food processing plant.** [A] commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a consumer. Food processing plant does not include a food establishment as defined in subpart 35.\(^82\)

**County Ordinance Definition**

- **Food processor.** Not defined by county ordinance code as of September 10, 2015.

**How do Dakota County ordinances impact this area?**

There are currently no relevant Dakota County ordinances specifically addressing this area.

**Additional Resources**

For more information about specific state laws impacting food processors and municipal zoning ordinances, please see:

- Starting a Food Business in Minnesota (2008), MINNESOTA DEPARTMENT OF AGRICULTURE, [http://www.mda.state.mn.us/~media/Files/food/business/startingfoodbiz.ashx](http://www.mda.state.mn.us/~media/Files/food/business/startingfoodbiz.ashx).

GETTING FOOD

Diets high in vegetables, fruits, whole grains, and lean proteins can help a person maintain a healthy weight and avoid chronic diseases such as diabetes, cancer, and heart disease. But for many people, eating a healthier diet is not as simple as choosing to eat healthier foods. Some neighborhoods do not have grocery stores or other food outlets that sell healthy foods and sometimes healthy foods are too expensive for people to buy. In order to eat healthier foods, people need better access to healthy, affordable food.

Minnesota law creates two general categories of businesses where Minnesotans purchase their food - food establishments and food and beverage service establishments. These categories encompass the vast majority of places involved in providing food to consumers, including retail food sales and prepared food sold to customers to be consumed onsite. Minnesota state law gives authority to regulate different types of food establishments and food and beverage service establishments to the Minnesota Departments of Health and Agriculture, depending on different characteristics established by state law. Minnesota state law has created general definitions for food establishments and food and beverage service establishments as follows:

State Law Definitions††

★ Food Establishment. 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.84

★ Food and Beverage Service Establishment. 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.85

County Ordinance Definitions

★ Food Establishment. Not defined by county ordinance code as of September 10, 2015.

†† Please note: State law includes a wide range of legal definitions for different types of food establishments and food and beverage service establishments. The definitions included here are meant to highlight key definitions relevant to this discussion.
Food and Beverage Service Establishment. Not defined by county ordinance code as of September 10, 2015.

Minnesota law requires that every person who handles food obtain a license and that “all producers, packagers, labelers, handlers, distributors and vendors of food, whether or not subject to licensing … be required to comply with the applicable rules.” Specifically, any person that engages in the business of manufacturing, processing, selling, handling, or storing of food must obtain a license, unless Minnesota law specifically exempts that person or activity from the general licensing requirement.

Farmers also face hurdles in accessing local markets, which makes it more challenging for Dakota County residents to access healthy local food. Homegrown South identified barriers to small and medium size farming operations accessing retail markets that are directly impacted by land use and zoning authority of the county and townships.

In getting their products to market, farmers face a number of challenges, ranging from an educated and consistent supply of consumers to effective sales and distribution channels. There is a need for increasing consumer demand for local agricultural products, both by expanding efforts to promote local farms and educating consumers about the real cost of food production. Understanding the array of economic and environmental expenses involved can help to convey the importance of developing a food system that works for everyone. Farmers pointed to policies like the Cottage Food Law and roadside stand regulations as obstacles to the expansion of their agricultural production and sales.

Selling Products of a Farm or Garden

The Minnesota constitution and state law exempts individuals selling products they grew on a farm or garden from the requirement of obtaining a food license. This licensing exemption does not extend to the sale of processed food or other products created from the garden or farm. At the same time, local governments can regulate other components of the sale of farm or garden products, such as accessory structures or stands used to sell or display farm or garden products and parking requirements for areas where these products are sold. Local governments can eliminate other regulatory and administrative barriers so that these food sellers can become more accessible to local residents.

Farmers’ Market

Local governments regulate farmers’ markets in different ways. Some local governments use very specific language and regulatory provisions to address the unique attributes of farmers’ markets, while others regulate farmers’ markets in the same way that other types of food establishments or businesses are regulated. Notably, certain laws and regulations may strengthen and encourage the operation of farmers’ markets within a certain community, while others burden or hinder the prosperity of farmers’ markets.

Minnesota state law provides a framework for farmers’ markets by establishing a definition for farmers’ markets and exempting some farmers’ market activities from licensing requirements,
including the sale of agricultural products sold by the farmer or gardener, food sampling provided to farmers’ market customers, and the sale of certain products processed in unlicensed kitchens covered under the 2015 Cottage Food Law. However, state regulation of farmers’ markets is fairly limited and local governments are generally more involved in regulating different aspects of farmers’ markets beyond this limited state involvement.

**Minnesota State Legal Definitions**

- **Farmers’ market,** (State law definition) An association of three or more persons who assemble at a defined location that is open to the public for the purpose of selling directly to the consumer the products of a farm or garden occupied and cultivated by the person selling the product.  

- **Food product sampling,** (State law definition) Distributing to individuals at a farmers’ market or community event, for promotional or educational purposes, small portions of a food item that include as a main ingredient a product sold by the vendor at the farmers’ market or community event. For purposes of this subdivision, "small portion" means a portion that is no more than three ounces of food or beverage.

- **Food product demonstration,** (State law definition) Cooking or preparing food products to distribute to individuals at a farmers’ market or community event for promotional or educational purposes.

**County Ordinance Definitions**

- **Farmers’ market,** Not defined by county ordinance code as of September 10, 2015.

- **Transient Merchant,** Not defined by county ordinance code as of September 10, 2015.

**Restaurant**

Restaurants are a type of food and beverage service establishment as defined by Minnesota law. These can vary greatly in terms of size, types of food products offered, and affordability. Some local governments use very specific language and regulatory provisions to address the unique attributes of a particular type of restaurant. For example, a municipal code may differentiate between a conventional bricks-and-mortar restaurant and a mobile food truck. Other local governments utilize broad regulatory language and regulate restaurants in a uniform manner.

Notably, certain laws and regulations may strengthen and encourage different types of restaurants within a certain community, while others burden or hinder the prosperity of these initiatives. As indicated in Table 1: Oversight of Food System by Minnesota Departments of Health and Agriculture, provided earlier, the MDH generally regulates restaurants in Minnesota. While MDH can delegate some of its licensing and other regulatory authority over restaurants to specific local governments, Dakota County does not have delegated authority from MDH.
Mobile, Temporary, Seasonal Food and Beverage Service Establishment

State and local laws often have different requirements for mobile, temporary, and seasonal food and beverage establishments. Local governments can support healthy food access by tailoring regulations to the needs of different types of healthy food retailers, such as mobile, temporary, and seasonal food and beverage service establishments. Many communities find that one-size-fits-all regulatory structure for food and beverage service establishment may not meet the needs of different types of business models and can sometimes prove to be burdensome for new and emerging businesses seeking to provide fresh, local foods.

Minneapolis State Legal Definitions‡‡

★ Mobile food unit means a food and beverage service establishment that is a vehicle mounted unit, either:

(1) motorized or trailered, operating no more than 21 days annually at any one place, or operating more than 21 days annually at any one place with the approval of the regulatory authority as defined in Minnesota Rules, part 4626.0020, subpart 70; or

(2) 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.92

★ Food cart means a food and beverage service establishment that is a nonmotorized vehicle self-propelled by the operator.93

★ 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.94

★ Seasonal temporary food stand. (a) "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 for no more than 21 days annually at any one location, except as provided in paragraph (b).

(b) A seasonal temporary food stand may operate for more than 21 days annually at any one place with the approval of the regulatory authority, as defined in Minnesota Rules, part 4626.0020, subpart 70, that has jurisdiction over the seasonal temporary food stand.95

‡‡ Please note: State law includes a wide range of legal definitions for different types of mobile, seasonal, and temporary food and beverage service establishments. The definitions included here are meant to highlight those key definitions related to food and beverage service establishments more likely to promote healthy food options.
**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.\(^6\)

**County Ordinance Definitions**

- **Food truck.** Not defined by county ordinance code as of September 10, 2015.
- **Food cart.** Not defined by county ordinance code as of September 10, 2015.
- **Food stand.** Not defined by county ordinance code as of September 10, 2015.

**Transient Merchant**

Anyone who engages in a temporary or transient business within Dakota County is required to obtain a Transient Merchant License. Many businesses may fall into this broad category, including different types of food establishments, food and beverage service establishments, and other vendors.

**Minnesota State Legal Definitions\(^8\)**

- **Transient merchant.** The term "transient merchant" includes any person, individual, copartnership, limited liability company, and corporation, both as principal and agent, who engage in, do, or transact any temporary and transient business in this state, either in one locality, or in traveling from place to place in this state, selling goods, wares, and merchandise; and who, for the purpose of carrying on such business, hire, lease, occupy, or use a building, structure, vacant lot, or railroad car for the exhibition and sale of such goods, wares, and merchandise. The term "transient merchant" does not include a seller or exhibitor in a firearms collector show involving two or more sellers or exhibitors.\(^7\)

**County Ordinance Definition**

- **Transient merchant.** Not defined by county ordinance code as of September 10, 2015.

**Grocery Store**

Local governments can be instrumental in promoting access to healthy foods through grocery stores. For example, some localities have used zoning ordinances or variances to encourage developers, grocers, and other property owners to locate grocery stores in underserved areas known as “food deserts.”

\(^8\) Please note: State law includes a wide range of legal definitions for different types of mobile, seasonal, and temporary food and beverage service establishments. The definitions included here are meant to highlight those key definitions related to food and beverage service establishments more likely to promote healthy food options.
Grocery stores must comply with the Minnesota state food safety requirements established in Minnesota law and other legal requirements governing food establishments and food and beverage service establishments if the grocery store serves prepared food. As indicated in Table 1: Oversight of Food System by Minnesota Departments of Health and Agriculture, provided earlier, the MDH and MDA may share regulatory authority over different aspects of a grocery store, depending on what activities the grocery store includes. For example, MDH could have regulatory authority over a restaurant service provided in a grocery store while MDA would have regulatory authority over the retail grocery operations.

How do Dakota County ordinances impact this area?

Dakota County ordinances impact how individuals can get food in two key ways, through licensing of transient merchants and by making public parkland available for farmers’ markets or other healthy food sales.

Transient Merchant License***

State law requires that any person engaging in business as a transient merchant must obtain a license from the county where the business will be conducted.

While not regulated by a county ordinance, Dakota County does issue transient merchant licenses, valid only within Dakota County, that are effective only for one sale location and only for the person on the license, unless that person is a member of a co-partnership.

Park Use - County Ordinance 107 (1997)

★ Special use. "Special Use" means the use of an area or facility in a County Park for the holding of tournaments, entertainment, or exhibitions; or, in a manner not customary or usual or normally allowed for that area or facility.

★ County park. "County Park" means those parks, park reserves, trails and other areas within the County of Dakota under the control of the Board of Commissioners and designated by them as being a part of the County Park System.

County Ordinance 107 establishes rules governing the use of county park land and facilities. The ordinance establishes a permitting requirement for the following uses:

- Special use of grounds and facilities;
- Use by fifty (50) or more people;
- Use for any commercial purpose;
- Use of signage or advertisement; and

*** Not detailed by ordinance.
• Use of shelters, tents, and canopies.

Ordinance 107 controls the use of county parks for farmers’ markets as follows:

CHAPTER II – REGULATION OF PUBLIC USE

Section B - Permits

1. Permits shall be required for the exclusive or special use of park grounds, trails or facilities, or for the use of park grounds or facilities when they are otherwise closed to the public.

2. Permits shall be required for any use which has or which can reasonably be expected to have fifty (50) or more persons involved or for any use that could potentially have a detrimental effect on park property or other park users.

3. Permits are issued by the Park Director or designated representative

4. Permits are not transferable.

5. The permittee or a permittee’s designated representative shall be in attendance at all times and have physical possession of the permit.

6. A permittee shall be bound by this ordinance and any Department regulations in force as though the same were inserted in said permit.

7. It shall be unlawful for a person to violate any provision of a permit.

8. Any permit granted pursuant to this ordinance may be revoked upon the violation by the permittee, or associated individual(s), of any provision of the permit, State Statute, any County ordinance, or rule or regulation of the County Parks Department.

9. The permittee shall be liable for any loss or damage to County Park property or injury to any person by reason of the negligence of the permittee or associated individual(s).

10. It shall be unlawful for any person to refuse to vacate the area designated as reserved by a permit.

CHAPTER IV – REGULATIONS PERTAINING TO GENERAL PARKLAND

Section A - Commercial Use/Solicitation/Advertising/Photography

It shall be unlawful for any person to;

1. Use any County Park or park property for commercial purposes without a permit;

2. Solicit, sell or otherwise peddle any goods, wares, merchandise, services, liquids or edibles in a County Park except by authorized concession or written permission from the Park Director; or
3. Expose, distribute or place any sign, advertisement, notice, poster, or display in a County Park without permission from the Park Director.

Additional Resources

As mentioned above, a few exceptions to the state’s licensing requirement exist. More information about some state exemptions from state licensing requirements is available in Appendix A, below. In addition, the following resources provide additional information about the range of exemptions from food sale licensing requirements:

- Starting a Food Business in Minnesota (2008), MINNESOTA DEPARTMENT OF AGRICULTURE,
  http://www.mda.state.mn.us/~/media/Files/food/business/startingfoodbiz.ashx.

- A Guide to Regulations for Local Food Entrepreneurs (2015), MINNESOTA INSTITUTE FOR SUSTAINABLE AGRICULTURE,

See Table 1: Oversight of Food System by Minnesota Departments of Health and Agriculture, provided earlier, for additional information regarding the specific authority the Minnesota Departments of Agriculture and Health have over different types of food establishments and food and beverage service establishments.
MAKING FOOD

For new and growing food businesses making food for either retail food operations or for sales of prepared foods to serve to consumers, access to a licensed or commercial kitchen can be invaluable. Some local governments may have policies in place to allow community groups or others to use licensed kitchens in community facilities to promote food skills and other activities increasing access to healthy food. These policies can support efforts to teach community members how to cook and provide new and emerging food businesses with space to develop their business without having to make an initial investment in a licensed kitchen.

Under state law, kitchens used to prepare food for public consumption, including catering operations, meal service programs, school kitchens, and other food preparation sights are recognized as “food establishments” and must comply with state laws, including licensing and food safety requirements. Minnesota state law does create limited exceptions from the state licensing requirements for some types of food prepared in kitchens that have not been licensed or inspected. A discussion of these exemptions is outside the scope of this document. However, resources providing additional information about these exemptions are provided, below.

How do Dakota County ordinances impact this area?

There are currently no relevant Dakota County ordinances that specifically address this area.

Additional Resources

For more information about state laws impacting kitchens used to prepare food for sale or other regulated purposes, including licensing and inspection requirements, please see the following resources:

- Starting a Food Business in Minnesota (2008), MINNESOTA DEPARTMENT OF AGRICULTURE, [http://www.mda.state.mn.us/~media/Files/food/business/startingfoodbiz ashx](http://www.mda.state.mn.us/~media/Files/food/business/startingfoodbiz ashx).
In addition, information about some recent changes to Minnesota state law allowing for some exemptions from state licensing requirements under the 2015 Cottage Food Law not included in these resources is provided in Appendix A.
Composting and recycling are both components of the local food system. Local governments can help reduce the amount of waste reaching landfills by removing barriers to composting and recycling (such as by permitting backyard composts in residential areas). Additionally, local governments can encourage composting and recycling by maintaining composting and recycling centers as well as composting and recycling areas throughout the community. Local governments can also support local gardening efforts by providing free or reduced cost compost.

Composting

Composting provides an organic source of nutrients for garden soil, and makes great use of leaf litter, grass clippings, plant debris, certain food scraps, and other decomposed organic matter. Composting programs are used to reduce waste and create a resource of organic matter for farmers and gardeners. Both municipal and state laws may impact composting activities, depending on the type of composting activity. Composting can be an activity limited to an individual household, also known as backyard composting. However, composting can also involve a larger waste stream if a larger commercial facility or business comports waste for its individual activities or consolidates compost from other businesses or facilities. Laws governing composting activities, at both the state and municipal level, generally depend on the type of composting activity – whether the composting is for an individual household or a larger facility.

Minnesota state law does not regulate permits or licenses for “backyard composting”. However, Minnesota state law does require a permit for facility composting (or commercial composting). Therefore, a distinction must be made between “backyard compost” and “facility compost.”

Compost generated by individual households, apartment buildings, or businesses would generally fall under the “backyard composting” umbrella and are regulated largely by the City. All other categories are most like to be considered “compost facilities” and are more heavily regulated by the Minnesota Pollution Control Agency.

Compost is regulated in part, by the Minnesota Pollution Control Agency. State regulations govern:

- Odors
- Design requirements
- Discharge and surface water drainage runoff
- Operation requirements (i.e., staff training)

**Minnesota State Law Definitions**

- Backyard compost site. *(State Definition)* A site used to compost food scraps, garden wastes, weeds, lawn cuttings, leaves, and prunings from a single family or household.
★ **Compost facility. (State Definition)** A site used to compost or cocompost solid waste, including all structures or processing equipment used to control drainage, collect and treat leachate, and storage areas for the incoming waste, the final product, and residuals resulting from the composting process.\(^{107}\)

★ **Composting. (State Definition)** The controlled microbial degradation of organic waste to yield a humus like product.\(^{108}\)

★ **Operator. (State Definition)** The person or persons responsible for the operation of a facility.\(^{109}\)

★ **Owner or facility owner. (State Definition)** The person or persons who own a facility or part of a facility.\(^{110}\)

**County Ordinance Definitions:**

★ **Backyard compost site** means a site used to compost vegetable food scraps, garden wastes, weeds, lawn cuttings, leaves and prunings from a single-family household, apartment building, or a single commercial office, by an owner, occupant, or lessee of the property.\(^{111}\)

★ **Compostable material** means any material that is primarily organic and can be decomposed through biological activity.\(^{112}\)

★ **Composting** means the controlled biological decomposition and management of selected solid waste to produce an innocuous, humus-like material, which can be used as a soil conditioner.\(^{113}\)

★ **Yard waste** means garden wastes, leaves, lawn cuttings, weeds, shrubs and tree waste, and pruning generated at residential, commercial, or public properties.\(^{114}\)

**Recycling and Waste Disposal**

The food system extends beyond the consumption of food and includes the disposal of food packaging and other non-compostable materials. Many materials can be used or reused through recycling, such as paper, glass, and plastic. Local governments often address garbage disposal and recycling via their municipal codes. By making recycling an easier option, local governments can encourage residents to recycle and reduce waste throughout the county.
County Ordinance Definitions

★ **Garbage** means discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.\textsuperscript{115}

★ **Mixed municipal solid waste** means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead-acid batteries, motor or vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams.\textsuperscript{116}

★ **Recyclable materials** means materials that are separated from solid waste for the purpose of recycling including, but not limited to, paper, glass, plastics, metals, automobile oil, and batteries. Refuse derived from fuel or other material that is destroyed by incineration is not a recyclable material.\textsuperscript{117}

★ **Recycling** means the process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable material in a manner that precludes further use.\textsuperscript{118}

How do Dakota County ordinances impact composting, recycling and waste disposal?

Dakota County regulates this area through the following ordinances:

**Solid Waste Management - County Ordinance 110 (2014)**

County Ordinance 110 establishes standards for regulating solid waste as well as solid waste disposal facilities.\textsuperscript{119}

Ordinance 110 controls waste in the context of this memo as follows:

**SECTION 3.00 GENERAL PROVISIONS**

**3.01 LICENSE REQUIRED**

C. **DISPOSAL OF SOLID WASTE.** Unless otherwise provided in this ordinance, no person shall, within Dakota County:

1. **Dispose of any solid waste except at a solid waste facility licensed by the county.**
2. Use or allow property or land under the person’s control to be used for intermediate or final disposal of solid waste unless licensed by the county board to do so.\textsuperscript{120}

3.03 – COMPOSTING ACTIVITIES WITH REDUCED REGULATIONS

The following composting activities shall be considered exempt from the requirements of section 3.01, 13.01, 13.02, 13.05, 13.06:

A. Backyard compost sites and the resulting compost.
B. The composting of less than 200 cubic yards or yard waste per year, provides the process follows acceptable methods of composting. . .\textsuperscript{121}

SECTION 15.00 COLLECTION AND TRANSPORTATION OF SOLID WASTE AND RECYCLABLE MATERIALS

15.01 – LICENSE REQUIRED

No person may collect and/or dispose solid waste, including recyclable materials, within Dakota County without first being granted a license to do so by the department as specified in this section. This section shall not apply to persons who collect and transport their own household solid waste. This section shall not apply to persons collecting or hauling strictly demolition waste or special waste to a demolition landfill or special waste landfill except for the provisions of section 15.04.\textsuperscript{122}

SECTION 16.00 SOLID WASTE ABATEMENT

16.04 – MANDATORY RESIDENTIAL RECYCLING

Section 16.04 shall be effective upon action by the county board. It shall be unlawful for any owner or occupant of a residential or multi-unit residential building to generate and deposit for collection mixed municipal solid waste that contains any of the following recyclable materials:

A. Beverage containers;
B. Glass recyclables;
C. Paper recyclables; and/or
D. Other materials that may be designated by the county board unless such waste is directly delivered or collected for direct delivery to a facility that has been approved by the county for separation of recyclable material.\textsuperscript{123}
16.05 – MANDATORY COMMERCIAL RECYCLING

Section 16.05 shall be effective upon action by the county board. It shall be unlawful for any owner or occupant of a commercial building to generate or deposit for collection mixed municipal solid waste that contains any of the following recyclable materials:

E. Beverage containers;
F. Glass recyclables;
G. Paper recyclables; and/or
H. Other materials that may be designated by the county board unless such waste is directly delivered or collected for direct delivery to a facility that has been approved by the county for separation of recyclable material.\(^{124}\)

16.06– RECYCLING PROGRAM REQUIREMENTS.

A. Scavenging of recyclable materials is prohibited. It shall be unlawful and a violation of this ordinance for any person other than employees of the county in the scope of their employment or the collector or hauler for the property to collect, remove, or dispose of recyclable materials after said materials have been placed or deposited for collection.
B. It shall be unlawful and a violation of this ordinance for any person to dispose of yard waste in mixed municipal solid waste.
C. It shall be a violation of this ordinance for any person to place for collection in Dakota County, yard waste, unless it is: (1) places in paper bags or other biodegradable containers that will decompose within the time period that the yard waste placed in the container(s) decomposes; or (2) placed in a reusable container that the hauler or person supplies to collect the yard waste.\(^{125}\)
## Appendix A: Search Terms

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<thead>
<tr>
<th>Fence</th>
<th>Market garden</th>
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<tr>
<td>Arbor</td>
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<td>Trellis</td>
<td>Farmers’ market</td>
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<td>Plant bed</td>
<td>Restaurant</td>
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<td>Greenhouse</td>
<td>Fast food</td>
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<td>Hoop house</td>
<td>Food truck</td>
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<td>High tunnel</td>
<td>Mobile food unit</td>
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<td>Shed</td>
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APPENDIX B: STATE EXEMPTIONS FROM STATE FOOD HANDLERS LICENSING REQUIREMENTS

Minnesota state law requires that “every person who handles food […] obtain a license” further indicating that “all producers, packagers, labelers, handlers, distributors and vendors of food, whether or not subject to licensing, shall be required to comply with the applicable rules.” Specifically, any person that engages in the business of manufacturing, processing, selling, handling, or storing of food must obtain a license. At the same time, there are a few exceptions to this licensing requirement, discussed below. Please note, this is not meant to be an exhaustive list and state law includes additional exemptions.

Minnesota Constitution

Exception: The Sale of Farm and Garden Products

The Minnesota Constitution exempts “growers” from obtaining a license to sell their farm and garden products. The Minnesota Constitution indicates that “Any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a license therefor.”

Therefore, Dakota County cannot require a grower to apply for a food license if that person falls under this constitutional provision.

This provision means:

- A farmer can sell his/her crops without a food license.
- A gardener or other grower can sell his/her produce without a food license.
- A farmer or individual can sell eggs directly from his/her farm or home to an individual customer with no licensing, registration, or inspection.

This Constitutional provision has been interpreted in the following ways:

- Provision of state constitution allowing any person to sell or peddle products of farm or garden occupied and cultivated by him without obtaining license therefor does not exempt a farmer from health and safety regulations that prohibit the sale of uninspected meat. (State v. Hartmann, 2005, 700 N.W.2d 449).

- The sale of “related products” are not exempt from a peddling license. (Farmer who grows broom corn from which he makes brooms and sells them to merchants and at private houses was required to have a peddler's license to sell the brooms, and is not exempt therefrom by Constitution). (Op.Atty.Gen., 1928, No. 250, p. 231).
• Meats from animals and turkeys and chickens raised on land occupied by a farmer who sells such meat in city constitutes “products of the farm or garden”, therefore city could not require farmer to be licensed in order to sell such product. (Op.Atty.Gen., 1940, No. 213, p. 263).

The constitutional provision does not cover (and therefore, these farmers and growers would still likely need some sort of food license in order to sell their products):

• Processed foods
• Products cultivated on land NOT occupied by the grower

To date, there is no clear legal ruling that interprets what exactly is meant when the constitutional provision requires the garden or farm be “occupied” by the grower/farmer/seller.

**Exemption: Small Scale Production & Minnesota’s Cottage Food Law (formerly known as Minnesota’s “Pickle Bill”)**

Minnesota state law creates an exemption from the state licensing requirements for individuals selling “home-processed” and “home-canned” foods, so long as the sale of these products meets certain statutory requirements. This law, formerly referred to as the “Pickle Bill”, was amended in 2015 to the current “Cottage Foods Exemption”. The 2015 Cottage Foods Exemption identifies certain circumstances under which an individual preparing and selling certain foods is exempt from obtaining a food handlers license.128

**Minnesota Statutes Chapter 28A. Licensing Food Handlers**

[28A.152] COTTAGE FOODS EXEMPTION

Subdivision 1. Licensing provisions applicability.

(a) The licensing provisions of sections 28A.01 to 28A.16 do not apply to the following:

(1) an individual who prepares and sells food that is not potentially hazardous food, as defined in Minnesota Rules, part 4626.0020, subpart 62, if the following requirements are met:

   (i) the prepared food offered for sale under this clause is labeled to accurately reflect the name and address of the individual preparing and selling the food, the date on which the food was prepared, and the ingredients and any possible allergens; and

   (ii) the individual displays at the point of sale a clearly legible sign or placard stating: "These products are homemade and not subject to state inspection."; and

(2) an individual who prepares and sells home-processed and home-canned food products if the following requirements are met:
(i) the products are pickles, vegetables, or fruits having an equilibrium pH value of 4.6 or lower;

(ii) the products are home-processed and home-canned in Minnesota;

(iii) the individual displays at the point of sale a clearly legible sign or placard stating: "These canned goods are homemade and not subject to state inspection."; and

(iv) each container of the product sold or offered for sale under this clause is accurately labeled to provide the name and address of the individual who processed and canned the goods, the date on which the goods were processed and canned, and ingredients and any possible allergens.

(b) An individual who qualifies for an exemption under paragraph (a), clause (2), is also exempt from the provisions of sections 31.31 and 31.392.

Subd. 2. Direct sales to consumers.

(a) An individual qualifying for an exemption under subdivision 1 may sell the exempt food:

(1) directly to the ultimate consumer;

(2) at a community event or farmers’ market; or

(3) directly from the individual's home to the consumer, to the extent allowed by local ordinance.

(b) If an exempt food product will be delivered to the ultimate consumer upon sale of the food product, the individual who prepared the food product must be the person who delivers the food product to the ultimate consumer.

(c) Food products exempt under subdivision 1, paragraph (a), clause (2), may not be sold outside of Minnesota.

(d) Food products exempt under subdivision 1 may be sold over the Internet but must be delivered directly to the ultimate consumer by the individual who prepared the food product. The statement "These products are homemade and not subject to state inspection." must be displayed on the Web site that offers the exempt foods for purchase.

Subd. 3. Limitation on sales.

An individual selling exempt foods under this section is limited to total sales with gross receipts of $18,000 or less in a calendar year.

Subd. 4. Registration.

An individual who prepares and sells exempt food under subdivision 1 must register annually with the commissioner. The annual registration fee is $50. An individual with $5,000 or less in
annual gross receipts from the sale of exempt food under this section is not required to pay the registration fee.

Subd. 5. Training.

(a) An individual with gross receipts between $5,000 and $18,000 in a calendar year from the sale of exempt food under this section must complete a safe food handling training course that is approved by the commissioner before registering under subdivision 4. The training shall not exceed eight hours and must be completed every three years while the individual is registered under subdivision 4.

(b) An individual with gross receipts of less than $5,000 in a calendar year from the sale of exempt food under this section must satisfactorily complete an online course and exam as approved by the commissioner before registering under subdivision 4. The commissioner shall offer the online course and exam under this paragraph at no cost to the individual.

Subd. 6. Local ordinances.

This section does not preempt the application of any business licensing requirement or sanitation, public health, or zoning ordinance of a political subdivision.

Subd. 7. Account established.

A cottage foods account is created as a separate account in the agricultural fund in the state treasury for depositing money received by the commissioner under this section. Money in the account, including interest, is appropriated to the commissioner for purposes of this section.

Exemption: Minnesota’s Farmers’ Market or Community Event Food Product Sampling and Demonstration Law

In 2014, the Minnesota Legislature passed the “Farmers’ Market or Community Event; Food Product Sampling and Demonstration” Law. This law allows farmers’ market vendors and individuals selling items at a community event to provide a small portion of a food item that includes as a main ingredient a product sold by the vendor at the farmers’ market or community event for promotional or educational purposes free of charge without obtaining a food handlers license. 130

Minnesota Statutes Chapter 28A. Licensing Food Handlers

28A.151 FARMERS’ MARKET OR COMMUNITY EVENT; FOOD PRODUCT SAMPLING AND DEMONSTRATION.

Subdivision 1. Definitions.

(a) For purposes of this section, the following terms have the meanings given them.
(b) "Farmers' market" means an association of three or more persons who assemble at a defined location that is open to the public for the purpose of selling directly to the consumer the products of a farm or garden occupied and cultivated by the person selling the product.

(c) "Food product sampling" means distributing to individuals at a farmers' market or community event, for promotional or educational purposes, small portions of a food item that include as a main ingredient a product sold by the vendor at the farmers' market or community event. For purposes of this subdivision, "small portion" means a portion that is no more than three ounces of food or beverage.

(d) "Food product demonstration" means cooking or preparing food products to distribute to individuals at a farmers' market or community event for promotional or educational purposes.

Subd. 2. Food sampling and demonstration.

The licensing provisions of [the Minnesota Consolidated Food Licensing Law] shall not apply to persons engaged in food product sampling or food product demonstrations.

Subd. 3. Food required to be provided at no cost.

Food provided through food product sampling or food product demonstrations must be provided at no cost to the individual.

Subd. 4. Regulatory authority oversight.

Any person conducting food product sampling or food product demonstrations shall provide to the regulatory authority upon request the following information related to the food product sampling or food product demonstration conducted by the person:

1. the source of the food used in the sampling or demonstration and whether or not the food was produced at the person's farm or garden;
2. the type and volume of food to be served, held, prepared, packaged, or otherwise provided for human consumption;
3. the equipment used to serve, hold, prepare, package, or otherwise provide food for human consumption;
4. the time period and location of the food product sampling or food product demonstration;
5. the availability of facilities for hand washing by persons conducting the food product sampling or food product demonstrations;
6. information on facilities available for ware washing of multiuse utensils and equipment;
7. the available source of water; and
8. methods of liquid and solid waste disposal.
Subd. 5. **Food safety and equipment standards.**

Any person conducting food product sampling or food product demonstrations shall meet the same food safety and equipment standards that are required of a special event food stand in Minnesota Rules, parts 4626.1855, items B to O, Q, and R; and 4626.0330.

Subd. 6. **Definition exception.**

The definition of farmers’ market in subdivision 1, paragraph (b), does not prohibit a farmers’ market association from establishing a definition of farmers’ market that applies to its membership that is more restrictive than the definition in subdivision 1, paragraph (b).
ENDNOTES

2 MINN. STAT. §§ 326B.101, 326B.41.
3 MINN. CONST., art. 13, § 7.
4 MINN. STAT. §§ 157.16, 28A.04; MINN. R. CH. 4626.
5 MINN. RULES CH. 4626.
7 MINN. STAT. § 28A.151 (2014).
8 MINN. STAT. § 28A.04.
9 MINN. RULES CH.4626.
11 MINN. RULES 4626.0017; MINN. STAT. § 144.05.
12 MINN. RULES 4626.0017; MINN STAT. § 144.05.
15 MINN. RULES 4626.1785.
16 MINN. STAT. §§ 31.101; 31.11.
17 MINN. RULES 4626.1785.
19 MINN. STAT. § 462.352, subd. 15 (2014); see also MINN. STAT. § 394.22, subd. 6 (2014); MINN. STAT. § 473.582, subd. 9 (2014).
20 MINN. STAT. § 394.21 (2014).
22 https://www.co.dakota.mn.us/Permits/ProfessionalLicenses/TransientMerchant/Pages/default.aspx (last visited September 9, 2015)
23 https://www.co.dakota.mn.us/Permits/WasteHaulerFacilityLicenses/Pages/default.aspx (last visited September 9, 2015)
24 Black’s Law Dictionary (2nd ed.) (“Permit”).
25 https://www.co.dakota.mn.us/Permits/BuildingZoningPermits/Pages/default.aspx (last visited September 9, 2015)
26 DAKOTA COUNTY, MINN., ORD. 50, § 6.01(A) (2015).
27 DAKOTA COUNTY, MINN., ORD. 50, § 6.01(B) (2015).
28 https://www.co.dakota.mn.us/Permits/WellPermits/Pages/default.aspx (last visited September 9, 2015)
29 https://www.co.dakota.mn.us/Permits/AssemblyLicenses/Pages/default.aspx (last visited September 9, 2015)
30 https://www.co.dakota.mn.us/Permits/HighwayPermits/LandscapingDrivewayMaintenance/Pages/default.aspx (last visited September 9, 2015)
31 https://www.co.dakota.mn.us/Permits/HighwayPermits/UtilityPermits/Pages/default.aspx (last visited September 9, 2015)
32 MINN. STAT. Ch. 394.
33 MINN. STAT. § 383D.61.
34 MINN. STAT. § 394.21 subd. 1.
36 MINN. STAT. § 394.23 et seq. (2014).
37 MINN. STAT. § 394.21 (2014).
38 MINN. STAT. § 473.851 (2014).
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(Minn. 2006).

(last visited June 17, 2015).

(last visited September 11, 2015).


http://www.dli.mn.gov/ccld/OpinionStaffAgriculture.asp

Memorandum from Scott McLennan, Minn. Dept. of Labor & Industry, to Division code staff (Sept. 24, 2013),

http://www.dli.mn.gov/ccld/OpinionStaffAgriculture.asp

“Buildings & Zoning Permits,” https://www.co.dakota.mn.us/Permits/BuildingZoningPermits/Pages/default.aspx


MINN. CONST. art. XII, § 3.


MINN. STAT. § 412.221.

State-Local Relations, Minnesota House Research, (Aug. 2014),

http://www.house.leg.state.mn.us/hrd/pubs/ss/sslctrel.pdf (referencing Minn. Stat. § 145A.05, which states: A county board may adopt ordinances for all or part of its jurisdiction to regulate actual or potential threats to the public health).

Minn. Stat. § 145A.05.

CODE OF ORDINANCES, CITY OF MINNEAPOLIS, Title 20, Chapter 520 of the Minneapolis Code of Ordinances relating to Zoning Code: Introductory Provisions. Section 520.160

MINN. STAT. § 394.21 subd. 1 (2015).


MINN. STAT. § 394.22 subd. 6 (2015).

Dakota County, Minn., Ord. 50 (2011).

Building and Zoning Permits, https://www.co.dakota.mn.us/Permits/BuildingZoningPermits/Pages/default.aspx


Dakota County, Minn., Ord. 50, § 2.01 (2011).

Dakota County, Minn., Ord. 50 § 16.08 (2011).

Dakota County, Minn., Ord. 50 § 19.02 (2011).

Dakota County, Minn., Ord. 107 Ch.1 § C (1997).
78 DAKOTA COUNTY, MINN., ORD. 107 CH.1 § C (1997).
79 DAKOTA COUNTY, MINN., ORD. 107 CH.1 § C (1997).
81 MINN. RULES 1520 – 1555; MINN. R. 4625.
82 MINN. RULES 4626.0020 1-201.10, subp. 36.
83 MINN. STAT. § 157.15, Subd. 5; MINN. R. 4626.0020 1-201.10, Subp. 35A.
84 MINN. RULES. 4626.0020 1-201.10, Subp. 35A.
85 MINN. STAT. § 157.15, Subd. 5.
86 MINN. STAT. § 28A.02.
88 MINN. CONST., art. 13, § 7
89 MINN. STAT. § 28A.151.
90 MINN. STAT. § 28A.151.
91 MINN. STAT. § 28A.151.
92 MINN. STAT. §157.15, Subd. 9.
93 MINN. STAT. §157.15, Subd. 6.
94 MINN. STAT. §157.15, Subd. 12a.
95 MINN. STAT. §157.15, Subd. 13.
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104 MINN. RULES 7035.2836.
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106 MINN. RULES 7035.0300, Subp. 7.
107 MINN. RULES 7035.0300, Subp. 19.
108 MINN. RULES 7035.0300, Subp. 20.
109 MINN. RULES 7035.0300, Subp. 73.
110 MINN. RULES 7035.0300, Subp. 74.
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112 DAKOTA COUNTY, MINN., ORD. 110 § 2.20 (2014).
113 DAKOTA COUNTY, MINN., ORD. 110 § 2.21 (2014).
114 DAKOTA COUNTY, MINN., ORD. 110 § 2.82 (2014).
115 DAKOTA COUNTY, MINN., ORD. 110 § 2.30 (2014).
116 DAKOTA COUNTY, MINN., ORD. 110 § 2.57 (2014).
117 DAKOTA COUNTY, MINN., ORD. 110 § 2.81 (2014).
118 DAKOTA COUNTY, MINN., ORD. 110 § 2.82 (2014).
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120 DAKOTA COUNTY, MINN., ORD. 110 § 3.01(C) (2014).
121 DAKOTA COUNTY, MINN., ORD. 110 § 13.03 (2014).
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125 DAKOTA COUNTY, MINN., ORD. 110 § 16.06 (2014).
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