

**BOROUGH OF DUNELLEN  
ORDINANCE # 2024 - 15**

The following ordinance was Introduced for first reading on June 17, 2024. A second reading, public hearing and adoption is being held at 7:00 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey, on July 1, 2024, and copies of this Ordinance have been posted on the public bulletin board prior to the date for second reading and final passage and copies of this Ordinance have been available at the Office of the Borough Clerk for any interested members of the public.

**ORDINANCE AMENDING AND SUPPLEMENTING  
CHAPTER 168 (FOOD HANDLING) TO ADD A NEW ARTICLE III  
(COTTAGE FOOD OPERATORS) AND AMENDING CHAPTER 115  
(ZONING), SECTION 34 (RA SINGLE FAMILY RESIDENTIAL  
DISTRICT) AND SECTION 35 (RB SINGLE-FAMILY AND TWO-  
FAMILY RESIDENTIAL DISTRICT**

**ORDINANCE ADDRESSING COTTAGE FOOD OPERATORS**

**WHEREAS**, pursuant to N.J.A.C. 8:24-11.1 et seq., the New Jersey Department of Health has established a regulatory regime for the issuance of permits to cottage food operators, which are individuals engaged in the preparation and sale of home baked goods; and

**WHEREAS**, N.J.A.C. 8:24-11.1(e) specifically provides that “[a]n applicant for a cottage food operator permit shall ascertain and comply with applicable local laws of the municipality in which the applicant seeks to operate a cottage food operation”; and

**WHEREAS**, in light of these regulations, the Borough seeks to clarify its ordinances to allow for a properly licensed cottage food operator to operate from their home, while ensuring proper protections for the health, safety, and welfare.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Dunellen the County of Middlesex, State of New Jersey, as follows:

**Section 1. Chapter 168 of the General Ordinances, titled “Food-Handling Establishments,” is hereby amended to include the following new section:**

**Article III. Cottage Food Operators**

168-11 Purpose.

A. Pursuant to N.J.A.C. 8:24-11.1, the New Jersey Department of Health has established a regulatory regime for the licensing of cottage food operators in New Jersey.

B. N.J.A.C. 8:24-11.1(e) specifically provides that “[a]n applicant for a cottage food operator permit shall ascertain and comply with applicable local laws of the municipality in which the applicant seeks to operate a cottage food operation.”

C. This Ordinance is intended to set forth the local laws of the municipality relating to cottage food operators as expressly authorized by State regulation.

D. The Borough seeks to clarify its ordinances to allow for a properly licensed cottage food operator to operate from their home, while ensuring proper protections for the health, safety, and welfare.

168-12 Definitions.

#### COTTAGE FOOD OPERATOR

A person or entity who holds a New Jersey cottage food operator permit issued by the New Jersey Department of Health, Public Health and Food Protection Program.

#### COTTAGE FOOD PRODUCT

Non-TCS food that a cottage food operator prepares and includes:

1. Baked goods, including bread, rolls, biscuits, cakes, cupcakes, pastries, and cookies;
2. Candy, including brittle and toffee;
3. Chocolate-covered nuts and dried fruit;
4. Dried fruit;
5. Dried herbs, seasonings, and mixtures thereof;
6. Dried pasta;
7. Dry baking mix;
8. Fruit jams, fruit jellies, and fruit preserves;
9. Fruit pies, fruit empanadas, and fruit tamales (excluding pumpkin);
10. Fudge;
11. Granola, cereal, and trail mix;
12. Honey and sweet sorghum syrup;
13. Nuts and nut mixtures;
14. Nut butters;
15. Popcorn and caramel corn;
16. Roasted coffee and dried tea;
17. Vinegar and mustard;
18. Waffle cones and pizzelles; and
19. Upon written application to the Public Health and Food Protection Program, other non-TCS food.

**168-13 Cottage Food Operations**

A. Prior to any person commencing operations as a cottage food operator or engaging in the production of any cottage food product, a person shall make application to the Borough of Dunellen Zoning Official and/or Health Official and the following:

- (1) An approved Cottage Food Operator’s License issued by the New Jersey Department of Health, Public Health and Food Protection Program pursuant to N.J.A.C. 8:24-11;
- (2) Evidence of authorization to operate on a particular property including
  - (a) If a person proposes to engage in cottage food operations from a property that is an apartment, condominium, townhome, co-op, or other form of multi-family housing, and said property is subject to the provisions of the Condominium Act, N.J.S.A. 46:6B-8.1 et seq. and/or Planned Real Estate Development Full Disclosure Act, N.J.S.A. 45:22A-21 et seq., the person shall provide either a) documentary evidence that the proposed cottage food operation is permitted by the Association’s governing documents, or b) a letter from the Association or its agent approving the cottage food operation.
  - (b) A written certification verifying that the person is the owner of the property from which cottage food operations are proposed, or a written certification from the property’s owner approving the cottage food operation.
- (3) **Licensing fee according to Chapter 150-3, Section F Zoning Fees, Number 1 Residential for \$125.00.**

B. The Borough of Dunellen Zoning Official and/or Health Official or Municipal Clerk shall issue a license authorizing the requested cottage food operations, provided:

- (1) The person has provided all documentation and information required by subsection (A);
- (2) The proposed cottage food operation comports with the State’s regulations at N.J.A.C. 8:24-11; and
- (3) The location of the proposed cottage food operation is within a zone that authorizes cottage food operations, or the person has a land use board approval sanctioning the same.

C. Any cottage food operator within the Borough shall comply with the following regulations:

(1) Cottage Food sales from the subject home shall take place only between the hours of **8:00 am and 8:00 pm**, with all sales and transactions by appointment only, with not more than one transaction every 15 minutes.

(2) Consistent with N.J.A.C. 8:24-11.3(a)(1)(i), the Cottage Food operation shall not include facilities (seating, standing areas, bar-counters, etc.) for on-site consumption of purchased food.

(3) Deliveries to consumers' homes as permitted by N.J.A.C. 8:24-11.3(a)(1)(ii) shall be conducted only by the operator or resident of the operator's household, and shall not be conducted by a non-resident employee or by a delivery service including on-demand services, except as permitted by N.J.A.C. 8:24-11.2(b).

(4) A cottage food operator shall not erect or install any signage at the residence where the cottage food products are produced advertising or otherwise relating to the operations of the cottage food operator.

(5) No displays or samples of the cottage food products produced at a residence shall be permitted anywhere in public view.

(6) The provisions of subsections (1), (3), (4), and (5) shall not be applicable to the extent activities have been lawfully authorized pursuant to an approval issued by the Planning Board pursuant to Chapter 115.

D. Any person or entity that violates this or any other Borough Ordinance or refuses to comply with all lawful order or direction of a health authority, fire code, or building department, is liable to pay a \$250 fine to the Borough, with each day of noncompliance being a separate offense. This is to be understood as being in addition to any penalties provided by N.J.A.C. 8:24-11.7.

**Section 2. Section 115-34 of the General Ordinances, titled "RA Single-Family Residential District," is hereby amended as follows:**

115-34 RA Single-Family Residential District

A. [NO CHANGES]

B. Permitted accessory uses and buildings. Uses and buildings incidental to the above uses, including, but not limited to, those specified below, shall be permitted:

(1) Private garages.

(2) Private swimming pools.

- (3) Storage sheds

**(4) Licensed Cottage Food Operations, subject to the requirements of Chapter 168, Article III, titled “Cottage Food Operators.”**

C. – E. [NO CHANGES]

**Section 3. Section 115-35 of the General Ordinances, titled “RB Single-Family and Two-Family Residential District,” is hereby amended as follows:**

115-35 RA Single-Family and Two-Family Residential District

A. [NO CHANGES]

B. Permitted accessory uses and buildings. Uses and buildings incidental to the above uses, including, but not limited to, those specified below, shall be permitted:

- (1) Private garages.
- (2) Private swimming pools.
- (3) Storage sheds

**(4) Licensed Cottage Food Operations, subject to the requirements of Chapter 168, Article III, titled “Cottage Food Operators.”**

C. – E. [NO CHANGES]

**Section 4. Severability.**

The provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

**Section 5. Repealer.**

All ordinances and resolutions, and parts of ordinances and resolutions which are inconsistent with provisions of this Ordinance shall be, and are hereby, repealed to the extent of any such inconsistency.

**Section 6. Effective Date.**

This Ordinance shall take effect upon final adoption and publication in accordance with law.

**Approved July 1, 2024**