



DEPARTMENT OF PLANNING AND DEVELOPMENT

MEMORANDUM

TO: Planning and Zoning Commission

FROM: Mark Wujtewicz, Planner

DATE: August 27, 2024

TITLE: Staff Report: Zoning Regulation Amendment – Application PL-24-11
Section 1 – Definitions. Home Occupation – Cottage Food Operator

EXECUTIVE SUMMARY

This application has been submitted pursuant to Section 28.2 of the Waterford Zoning Regulations to amend the following sections of the Zoning Regulations:

Section 1- Definitions to add “Cottage Food Operator” as a listed Customary Home Occupation Use

This application was received by the Commission on July 9, 2024

The application was posted in the Office of the Waterford Town Clerk on August 1, 2024

The Public Hearing was advertised in The Day on August 13 and August 20, 2024

The date of Public Hearing was August 27, 2024

BACKGROUND

Pertinent Regulations

Connecticut General Statutes

CGS 8-2(d)6

CGS 8-3(a)

CGS 21a-62b thru 62h

Waterford Zoning Regulations

Section 1 – Definitions – Home Occupation, Customary

Section 3.11 – Customary Home Occupations

DISCUSSION

The proposed modification to Section 1 Definitions of the Town of Waterford Zoning Regulations is to add “Cottage Food Operator” as a listed Customary Home Occupation use. State Public Act 18-141 and subsequently Sec 21a-62b thru 21a-62h were enacted in 2018, which added Cottage Food Operations as a use to be licensed and regulated by the Connecticut Department of Consumer Protection (CT DCP). Since the enactment of the State Legislation, the Planning and Development Department has received several inquiries from residents seeking to obtain a Cottage Food Operator license from the CT DCP. One of the requirements for a Cottage Food Operator to be licensed by the CT DCP is that the specific use is permitted within the municipality’s Zoning Regulations.

Waterford currently allows certain listed businesses defined as Customary Home Occupations to operate from a single-family dwelling provided the use is consistent with the standards and criteria listed in Section 3.11 of the Zoning Regulations. The addition of Cottage Food Operator as a Customary Home Occupation would require any potential licensee to obtain a Customary Home Occupation permit from the Zoning Official prior to submitting the license application to CT DCP. All Customary Home Occupation permit applications are reviewed by the Zoning Official to verify that all the listed conditions and criteria in Section 3.11 are complied with. An approved Customary Home Occupation permit would be the confirmation that the applicant would obtain verifying that the use as proposed is compliant with local zoning regulations.

All other requirements and criteria to obtain and maintain the State License are enforced through the local health department and the CT DCP.

Pursuant to Section 8-3a of the Connecticut General Statutes, before the Commission acts upon an application to amend the Zoning Regulations of the Town of Waterford, it must find whether or not the amendments being proposed are consistent with the goals, policies and objectives contained in the 2012 Waterford Plan of Preservation, Conservation and Development, herein after called the Plan.

The Goal in the Business/Economic Development section of the Plan directs Waterford to “Promote business and economic development to meet local needs and maintain a favorable tax base”, “...to encourage future business activity...”, and to “Support Appropriate Home-Based Businesses.” This regulation amendment promotes business and economic development and encourages future business activity by supporting appropriate home-based businesses in Waterford while mitigating any potential adverse impacts through the Customary Home Occupation permit review process.

RECOMMENDED ACTION

Based on the information provided, staff recommends the Planning and Zoning Commission find that:

Findings:

1. Application PL-24-11 meets the requirements of Section 28 of the Waterford Zoning Regulations.
2. Application PL-24-11 meets the requirements of Connecticut General Statutes Chapter 124 §8-3 governing changes of zoning regulations and districts.
3. Application PL-24-11, if approved, is consistent with CGS §8-2(d)6 in that it will allow for the operation in a residential zone any Cottage Food operation in compliance with the Town of Waterford Zoning Regulations
4. The proposed Regulation Amendment is consistent with the 2012 Plan of Preservation Conservation and Development in meeting the stated goals of the Business/Economic Development Guide in that the amendment as proposed will promote business and economic development to meet local needs, maintain a favorable tax base and assist in encouraging future business activities.
5. The proposed Regulation Amendment is also consistent with the 2012 Plan of Preservation Conservation and Development in Supporting Appropriate Home-Based Businesses and mitigating negative impacts by requiring that a Customary Home Occupation is in compliance with Section 3.11 of the Waterford Zoning Regulations.

and that:

Proposed Motion: The Commission approve Application PL-24-11 to amend Zoning Regulations Section 1 Definitions by adding Cottage Food Operator and adopt the findings 1 thru 5 of the Staff Report.

Effective Date: September 20, 2024

GUIDE

Business / Economic Development

GOAL

Promote business and economic development to meet local needs and maintain a favorable tax base.

Communities typically desire business / economic development for one or more of the following reasons:

- employment for residents,
- availability of goods and services, and/or
- provision of tax revenue (especially when it is greater than the demand for local services).

Waterford has been very fortunate to have been able to provide for these things within the community over the years as a result of the business and economic development. Still, Waterford is interested in additional economic development for all of these reasons.

A. Continue to Pursue Economic Development

Waterford's strategic location, excellent infrastructure system (roads and utilities), low property taxes, existing business base, and progressive regulations are significant assets in terms of retaining and attracting economic development. Waterford should continue to pursue economic development which is consistent with community goals and objectives.

Sunset Ribs (Mago Point)



Boston Post Road Businesses



Sonalyt Studios



Crystal Mall



F. Support Appropriate Home-Based Businesses

Due to technological and other improvements, more and more people are working from home. Waterford should maintain regulations to allow and manage home-based businesses (professional uses, business services, personal services, and contractors). Waterford can be an “incubator” for such businesses so that, as they grow and prosper, they can move from residential neighborhoods to business areas.

Special efforts should continue to:

- managing the activities of home-based contractors,
- limiting the parking of commercial vehicles in residential areas, and
- mitigating negative effects of home-based businesses.

Home Office



Home-Based Professional



Home-Based Service



Home-Based Contractor



See the “Implementation Element” of the Waterford Plan of Preservation, Conservation and Development for information on tasks and actions currently programmed for implementation of these Business Development strategies.

Town of Waterford Zoning Regulations Excerpt

3.11 CUSTOMARY HOME OCCUPATIONS

The following uses shall be specifically exempt from Home Occupation Permit requirements, only if limited to no more than two members of the immediate household operating within the confines of the single family residence, and without any exterior or measurable changes in the use of the property beyond that normally characteristic of a single family home, based upon traffic generation, parking, hours of operation, noise, and similar characteristics, as determined by the Commission or its agent.

- a. business offices as defined in Section 1 of these regulations.
- b. occupations operated through telecommunications.
- c. phone answering service, excluding dispatch.

The Commission reserves the right to review and act upon any use referred to the Commission by the ZEO for a determination of compliance with the above definitions and exemptions.

Customary home occupations, as defined in section 1 of these regulations may be legally carried on for compensation as an accessory use to a one-family dwelling upon approval of a Zoning Compliance Permit by the Zoning Enforcement Officer and subject to compliance with the standards required herein. Application shall be made to the ZEO and shall include the following:

A plot plan drawn to scale indicating parcel boundaries, parking, access, and existing/proposed structures, Completed Zoning Compliance Permit application form.

Application fee.

Scale floor plans of all areas of the home, including garages and basements, indicating the use of these areas, area to be used for the home occupation, and a calculation indicating the total area of a living spaces in the home, area to be used for the home occupation, and percentage of the living area to be used for the home occupation.

A written narrative that specifically describes the use and its compliance with the following standards of section 3.11.

- 3.11.1 The occupation is operated entirely within the confines of the dwelling by the occupant of such dwelling and does not require storage of any materials or products on the premises outside of the dwelling unit.
- 3.11.2 The occupation is clearly secondary to the use of the dwelling for residential purposes.
- 3.11.3 Such occupation shall not change the residential character of the dwelling in any visible manner.
- 3.11.4 Such occupation shall not create objectionable noise, smoke, odor, toxic fumes, vibration, or unsightly conditions that would set the dwelling apart in its surroundings or degrade residential property values in the neighborhood.
- 3.11.5 Such occupation shall not create interference with radio or television reception in the vicinity.
- 3.11.6 Such occupation shall not create a health or safety hazard.
- 3.11.7 Such occupation shall be carried on only by the inhabitants of the residence except that one person in addition to a normal resident may also be employed part-time.
- 3.11.8 Such occupation shall occupy an area not to exceed 20% of the gross floor area of such dwelling.
- 3.11.9 Such occupation shall not have any exterior display or advertisement regarding any commodity or service available on the premises. However, a single sign meeting the requirements of Section 21.2 of these regulations may be erected indicating the type of home occupation being operated on the

premises. Any such sign shall also comply to all other applicable requirements of Section 21 of these regulations.

- 3.11.10 Such occupation shall not increase the traffic or vehicular congestion in a neighborhood in excess of the typical operation of the household without the occupation.
- 3.11.11 Off-street parking in accordance with the requirements of Sections 20.2, 20.3, 20.4, and 20.5 of these regulations must be provided and its location and design must not change the characteristics of the neighborhood.
- 3.11.12 No commercial vehicle may be used to support the home occupation.

Connecticut General Statutes Excerpts

Sec. 8-2. Regulations.

(d) Zoning regulations adopted pursuant to subsection (a) of this section shall not:

(6) Prohibit the operation in a residential zone of any cottage food operation, as defined in section [21a-62b](#);

Sec. 21a-62b. Definitions. For the purposes of this section and sections [21a-62c](#) to [21a-62h](#), inclusive:

(1) “Commissioner” means the Commissioner of Consumer Protection or an authorized agent of the commissioner;

(2) “Cottage food operation” means any person who produces cottage food products only in the home kitchen of such person's private residential dwelling and only for sale directly to the consumer and who does not operate as a food service establishment pursuant to section [19a-36](#) or regulations adopted pursuant to section [21a-101](#), or a food retailer, distributor or manufacturer as defined in subsection (b) of section [21a-92](#) and section [21a-151](#);

(3) “Cottage food products” means nonpotentially hazardous baked goods, jams, jellies and other nonpotentially hazardous foods produced by a cottage food operation. “Cottage food products” does not include maple syrup or honey;

(4) “Food service establishment” means any establishment in which food is stored, offered for sale, processed or prepared, and includes the transportation of any food;

(5) “Private residential dwelling” means an owner or resident occupied dwelling. “Private residential dwelling” does not include any group or communal residential setting within any type of structure or outbuilding, shed, barn or other similar structure;

(6) “Home kitchen” means a kitchen designed and intended for use by the residents of a home but that is also used by a resident for the production of cottage food products and that may contain one or more stoves or ovens, which may be a double oven, designed for residential use. “Home kitchen” does not include commercial equipment typically used for large wholesale manufacturing;

(7) “Permitted area” means the portion of a private residential dwelling that contains a home kitchen where the preparation, packaging, storage or handling of cottage food products occurs; and

(8) “Potentially hazardous food” means a food that requires time and temperature control for safety to limit pathogenic microorganism growth or toxin formation, which controls shall be consistent with the United States Food and Drug Administration's Food Code definition for time and temperature control for safety food, as amended from time to time, and adopted by reference by the commissioner pursuant to section [19a-36h](#).

Sec. 21a-62c. Cottage food operations. Examination of premises. Licensure requirements.

(a) All cottage food operations shall be licensed annually by the Commissioner of Consumer Protection. The license application form shall be developed by the commissioner. The license shall specify the food products allowed to be produced by the cottage food operation. The annual license fee for cottage food operations shall be set by the Commissioner of Consumer Protection, provided such fee shall not exceed one hundred dollars.

(b) Prior to licensing, the commissioner shall, within existing resources, examine the premises of the cottage food operation to determine it to be in compliance with the provisions of this section and sections [21a-62b](#) and [21a-62d](#) to [21a-62h](#), inclusive.

(c) Any cottage food operation shall comply with all applicable municipal laws and zoning ordinances when conducting a business from a private residential dwelling. Upon request by the commissioner, the cottage food operation shall provide written verification, from a credible recognized source, as determined by the commissioner, of compliance with all local, state and federal laws regarding on-site wastewater systems.

(d) Any cottage food operation with a private water supply shall have the supply tested prior to receiving a license in order to demonstrate that the water supply is potable. Subsequent testing of such private water supplies shall be required at a frequency determined by the commissioner.

(e) Prior to receiving a license, each cottage food operation shall have attended and completed a food safety training program that includes training in food processing and packaging. A list of food safety training programs that are recognized by the commissioner shall be maintained on the Department of Consumer Protection's Internet web site.

Sec. 21a-62d. Limitation on total annual gross sales. Direct sale to consumer. Authorized food products. Display of license. (a) Total annual gross sales for a cottage food operation shall not exceed fifty thousand dollars per calendar year. If annual gross sales exceed the maximum annual gross sales amount allowed, the cottage food operation shall either obtain a food manufacturing establishment license or cease operations. The commissioner may request documentation to verify the annual gross sales figure of any cottage food operation.

(b) Products produced by a cottage food operation shall be sold directly to the consumer. Direct sales at point of production, farmers markets, local fairs and festivals, and charitable organization functions are permitted. Advertising and sales by Internet, mail and phone are permissible, provided the cottage food operator or their designee shall deliver, in person, to the customer within the state. No such operation shall engage in consignment or wholesale sales. The following additional locational sales by any such cottage food operation shall be prohibited: (1) Grocery stores; (2) restaurants; (3) long-term care facilities; (4) group homes; (5) day care facilities; and (6) schools. A cottage food operation may not operate as a food service establishment, a retail establishment engaged in the sale of food, a food manufacturing establishment, as defined in section [21a-151](#), or a food warehouse, as defined in section [21a-151](#).

(c) A cottage food operation may only produce those specific food products listed on its license.

(d) Any such license shall be displayed at every location where the operation's cottage food products are sold.

Sec. 21a-62e. Inspection of cottage food operation. (a) The commissioner may inspect a cottage food operation at any time to ensure compliance with the provisions of this section, sections [21a-62c](#), [21a-62d](#) and sections [21a-62f](#) to [21a-62h](#), inclusive.

(b) Nothing in this section, section [21a-62c](#) or [21a-62d](#) or sections [21a-62f](#) to [21a-62h](#), inclusive, shall be construed to prohibit the local director of health or duly authorized agents of the director from investigating the permitted area of a cottage food operation in response to a foodborne illness outbreak, consumer complaint or other public health emergency.

Sec. 21a-62f. Authorized food items. Prohibited food items. (a) A cottage food operation may produce food items that are not potentially hazardous food.

(b) A cottage food operation shall not produce:

(1) Potentially hazardous food items; and

(2) Food items that present a food safety risk, such as acidified foods, low acid canned foods, garlic in oil, fresh fruit or vegetable juices and beverages.

Sec. 21a-62g. Prepackaged food products. Labels. If a cottage food operation sells cottage food products that are prepackaged, such packaging shall include an affixed label that contains the following information and that is printed in English:

(1) The name and address of the cottage food operation;

(2) The common or usual name of the cottage food product;

(3) The ingredients of the cottage food product, in descending order of predominance by weight or volume;

(4) Allergen information, as specified by federal labeling requirements, such as milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat and soybeans; and

(5) The following statement printed in at least ten-point type in a clear and conspicuous manner that provides contrast to the background label: "Made in a Cottage Food Operation that is not Subject to Routine Government Food Safety Inspection."

Sec. 21a-62h. Cottage food operation requirements. License suspension and revocation.

Hearing. Cost of inspection. (a) Each cottage food operation shall comply with the following requirements and any failure to comply shall be deemed a violation of this section and sections [21a-62b](#) to [21a-62g](#), inclusive:

(1) No person, other than the person licensed to produce cottage food products or a person under his or her direct supervision, may engage in the processing, preparing, packaging or handling of any cottage food products;

(2) No preparation, packaging or handling of cottage food products shall occur in the home kitchen concurrently with any other domestic activities such as family meal preparation, clothes washing or ironing, kitchen cleaning, or guest entertainment;

(3) No pets, infants or children under the age of twelve shall be in the home kitchen during the preparation, packaging or handling of any cottage food products;

(4) All food contact surfaces, equipment and utensils used for the preparation, packaging or handling of any cottage food products shall be washed, rinsed and sanitized before each use;

(5) All food preparation and food and equipment storage areas shall be maintained free of rodents and insects; and

(6) All persons involved in the preparation and packaging of cottage food products:

(A) Shall not be ill while working in the home kitchen;

(B) Shall wash their hands before any food preparation and food packaging activities; and

(C) Use single-service gloves, bakery papers, tongs or other utensils in order to not have bare hand contact with ready-to-eat foods.

(b) A cottage food operation license may be suspended or revoked by the commissioner for any violation of this section or sections [21a-62b](#) to [21a-62g](#), inclusive, after a hearing conducted in accordance with chapter 54. A cottage food operation license may be summarily suspended pending such a hearing if the commissioner has reason to believe that the public health, safety or welfare imperatively requires emergency action. Upon issuing a summary suspension, the commissioner shall schedule a hearing to determine whether to reinstate the license of the cottage food operation. Following said hearing, the commissioner shall either void such suspension or order revocation of the cottage food operation license. Any person or business entity whose license was revoked shall not be permitted to apply to the department for a new license for a period of one year from the date of decision of license revocation by the commissioner. The cost of any inspections necessary to determine whether or not an applicant whose license was revoked is entitled to have a new license granted shall be borne by the applicant at such rates as the commissioner may determine. The commissioner may refuse to grant any cottage food operation license if the commissioner finds that the applicant has evidenced a pattern of noncompliance with the provisions of this section or sections [21a-62b](#) to [21a-62g](#), inclusive. Prima facie evidence of a pattern of noncompliance shall be established if the applicant has operated, controlled or managed two or more cottage food operations for which such a license has been revoked.

SOUTHEASTERN CONNECTICUT COUNCIL OF GOVERNMENTS

5 Connecticut Avenue, Norwich, Connecticut 06360
(860) 889-2324/Fax: (860) 889-1222/Email: office@seccog.org

(Via electronic mail)

July 10, 2024

Mark Wujtewicz
Town of Waterford
15 Rope Ferry Road
Waterford, CT 06385

Dear Mr. Wujtewicz:

I am writing in response to an application for regulation amendments for the Town of Waterford. The application was received on 7/9/2024. The application was referred to this agency pursuant to Section 8-3 of the Connecticut General Statutes.

The proposed amendment would add Cottage Bakery, or Cottage Food Operator, as an additional customary home occupation in Section 1.37 of the Town of Waterford Zoning Regulations.

Based on a review of the material provided, I have determined that the proposed amendments are not likely to have a negative inter-municipal impact.

If you have any questions, please contact me at 860-889-2324 ext.114.

Sincerely,



Nicole Haggerty, AICP
Planner III
nhaggerty@seccog.org

Member Municipalities:

Bozrah * Colchester * East Lyme * Franklin * Griswold * Borough of Jewett City * City of Groton * Town of Groton * Lebanon * Ledyard * Lisbon * Montville * New London * North Stonington * Norwich * Preston * Salem * Sprague * Stonington * Stonington Borough * Waterford * Windham

If language assistance is needed, please contact SCCOG at 860-889-2324, office@seccog.org.

Si necesita asistencia lingüística, por favor comuníquese a 860-889-2324, office@seccog.org.

如果您需要语言帮助，请致电860-889-2324或发送电子邮件至 office@seccog.org.