

MICROENTERPRISE HOME KITCHEN OPERATIONS (MEHKO's)

San Benito County Board of Supervisors
May 10, 2022



MICROENTERPRISE HOME KITCHEN OPERATIONS (MEHKOs)

- A new type of restricted retail food facility, effective 1/1/2019 (AB626)
- Modified in AB 377 (Clean-up Bill) with specific inspections and food safety standards, effective 10/07/2019
- MEHKO is a food facility operated in a private home where food is stored, handled, prepared for or served to consumers.
 - Must be permitted by the local Environmental Health Department, and subject to an annual inspection
 - Limited to 30 meals per day or 60 meals per week food preparation
 - Food must be prepared, cooked and served on the same day
 - Customers may dine in, pick up, or have food delivered
 - Limited to one full time equivalent food employee, not including a family member or household member
 - Operation may not exceed \$50,000 in verifiable gross annual sales, as adjusted by the California Consumer Price Index (2022 – Total Sale Allowance \$54,310)
 - Internet food service companies must include pathways to reporting food borne illness
 - Delivery services may not be used other than food disabled customers

MEHKO Implementation

- If County opts in, cities cannot opt out
 - City of San Juan Bautista – City Council consensus – Move forward
 - City of Hollister – City Council consensus – Neutral
- Environmental Health (EH) to issue MEHKOs permits
 - Each MEHKO would be required to submit a Standard Operating Procedure,
 - Receive initial inspection by EH,
 - Pay a permit fee and obtain a Health permit.

Roles and Responsibilities

- Complaints, with exceptions of those related to food safety & foodborne illnesses, to be handled by local jurisdictions and County Code Enforcement in the unincorporated
- County staff to address nuisance complaints related to impacts from a particular MEHKO in the unincorporated communities
- Individual incorporated city's code enforcement or corresponding compliance department would address complaints and issues related to community impacts, including noise and parking.
- There are safeguards within the existing State laws to reduce community impacts from MEHKOs & similar businesses
- The California Retail Food Code (CRFC; Food Code) prohibits jurisdictions from adopting additional zoning restrictions however, nothing prohibits local jurisdictions from adopting nuisance-related regulations consistent with State law

Environmental Health

Areas of Concern - Food Safety

- **Contamination risk for food, equipment and surfaces:**
 - Unlike a restaurant, family, children and pets are not restricted from the food preparation areas.
 - Family members who are ill are not excluded from kitchen.
- **Temperature control of food:**
 - Restaurants are required to use commercial refrigerators that are designed to hold large quantities of food at 41°F or below and constant opening and closing. Domestic refrigerators are not built to the same standards.
- **Sanitation:**
 - Home kitchens are not built to commercial standards for sanitation, cleanability, and vermin exclusion.
 - Exempt from requirements like separate sinks for food prep and handwashing and mop sinks.
- **No “unannounced inspections” or local grading placards/postings:**
 - Unlike restaurants, health inspectors can only conduct one annual prearranged inspection and are limited to inspecting areas that the operator says are used for the MEHKO, unless the agency has a “valid reason, such as a consumer complaint.”

Areas of Concern

Potential Community Impacts

- Increased traffic in neighborhoods
- Increased parking issues
- Increased noise
- Increase in solid waste/garbage
- Increased level of fats, oils, and grease disposed to sewer lines
- Residential septic systems are not sized to accommodate the extra impact
- Homes on private wells have no routine water testing requirements
- Increased use of BBQs and outdoor ovens – increased smoke and odors

Other Concerns That Have Been Raised

- Direct competition with restaurants and food trucks that are held to a higher food safety standard.
- Inequity of overhead cost creates economic business advantage to MEHKOs, disadvantage to restaurants and food trucks.
- Inspector safety when visiting private homes.
- Not all Residential homes are built to meet the Americans with Disabilities Act (ADA) standards and MEHKOs may not be able to fully accommodate customers with disabilities.
- Unpermitted MEHKOs; increased enforcement needed and numerous challenges with enforcement.

Other

- Riverside County charges \$651.00 for their MEHKO Application Fee

Options for Authorization of a MEHKO program

- Option 1 – Authorize a MEHKO program
 - The Food Code allows the County Board of Supervisors, as the governing body to authorize a local MEHKO program by adopting an ordinance or resolution. The program would be implemented as codified in State Law (Food Code)
- Option 2 – Decline to authorize a MEHKO program
 - The Board affirmatively decline to authorize a MEHKO program for the region.
- Option 3 – Delay the decision to Authorize a MEHKO program
 - The Board delays the decision to authorize MEHKOs. In that case, no action is taken to allow or decline MEHKOs in the foreseeable future, and the Board may revisit the program later.

Option 1 – Authorize a Microenterprise Home Kitchen Operations Program

- If the Board Selects Option 1 and authorizes a MEHKO program Countywide, the Board is requested to provide direction on the type of authorization by selecting one of the following options:
 - 1A) Authorize a MEHKO Program as codified in the State Law (CRFC), and subject to any local requirements incorporated into Ordinance.
 - 1B) Temporarily authorize a MEHKO program (2 years or per Board recommendation) as codified in the State Law and subject to any local requirements incorporated in the ordinance.
 - Limit duration of the program
 - Cannot not be limited to certain areas or incorporated cities must be countywide
 - Would include a sunset date for review

Additional Food Safety Measures for Board Consideration

- Food Safety Certificate
 - The food safety certificate must be submitted as part of the MEHKO application
 - Allow the food safety certificate to be obtained with 60 days of issuing a MEHKO permit
- Allowable Food Storage Areas
 - Limit allowable food storage areas inside the residence (Ex. Non bedrooms, pantries, kitchen, etc.)
 - Allow food storage in regions outside of the home (ex. Garages, outdoor shed, workshops, etc.) only if stored inside a refrigerator or freezer
- Number of Meals – Daily/Weekly – Customers
 - Maintain the maximum number of meals served (30 per day/60 per week).
 - Reduce the maximum number of meals serve
- MEHKOs per Residence
 - Limit one MEHKO per residence (Staff recommendation)
 - No limit established

Staff Recommendation

- Provide Direction on the presented options.
- Provide direction on other areas to address.

Thank You.
Questions?