



**SAN BENITO COUNTY
AGENDA ITEM
TRANSMITTAL FORM**

Betsy Dirks
District No. 1

Kollin Kosmicki
District No. 2
Vice Chair

Peter Hernandez
District No. 3
Chair

Bob Tiffany
District No. 4

Bea Gonzales
District No. 5

Item Number: 2.5

MEETING DATE: 09/27/2022

DEPARTMENT: BOARD OF SUPERVISORS

AGENDA ITEM PREPARER: Gracie Rodriguez

DEPT HEAD/DIRECTOR: Ray Espinosa

SUBJECT:

BOARD OF SUPERVISORS

Final adoption of the proposed ordinance: An ordinance of the County of San Benito adding Chapter "Microenterprise Home Kitchen Operations" to Title 7 of the San Benito County Code of Ordinances temporarily authorizing a Microenterprise Home Kitchen Operations Program throughout the County of San Benito and incorporating by reference to the Health and Safety Code sections 113789, 113825, 114367, 114367.1 - 114367.6 and 114390. This Ordinance shall be in full force and effect thirty (30) days after its passage and adoption; the Clerk of the Board or designee shall be authorized to certify the passage and adoption of the ordinance and shall submit the ordinance or ordinance summary of the same to be published at least once, with the names of the members of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation in the County of San Benito, State of California, before the expiration of 15 days after passage.

SBC FILE NUMBER: 156

ORDINANCE: 1046

AGENDA SECTION:

CONSENT AGENDA

BACKGROUND/SUMMARY:

On September 13, 2022, the proposed ordinance was introduced, and formal reading was waived. The ordinance is now before the Board for final adoption.

State law, the California Retail Food Code (CRFC), establishes uniform health and sanitation standards at the state level to regulate retail food operations (Food Facilities) to prevent foodborne illness. The CRFC defines a food facility as an operation that stores, prepares, serves, sells, or otherwise provides food for human consumption at the retail level and includes restaurants, mobile food trucks, grocery stores, delis, food carts, schools, and cottage food operations. The Department of Public Health,

Environmental Health Division is the local enforcement agency throughout the County of San Benito. Environmental Health conducts inspections and focuses on compliance with CRFC and reviews handling practices to protect the public's health and prevent foodborne illness.

Before 2012, California required food to be sold to consumers and be made at inspected commercial kitchens. In 2013 the California Homemade Food Act allowed certain low-risk food products not requiring refrigeration, such as bread, pie, fruit jam, and dried food, to be made in private home kitchens and sold as fully packaged and labeled products to consumers. These operations, commonly known as cottage food operations, allow home cooks to start a small business.

2019 the enactment of Assembly Bill (AB) 626, California Retail Food Code: Microenterprise Home Kitchen Operations, expanded the opportunity for home cooks to operate a small business. This law established a microenterprise home kitchen operation (MEHKO) as a new type of food service facility in the CRFC. Once authorized, MEHKOs home cooks can prepare and sell a wide range of foods in a home kitchen, including foods that require time and temperature control to prevent bacteria growth, such as meat, fish, poultry, and dairy products.

MEHKOs cannot operate or be permitted until authorization is granted by the governing body of the local enforcement agency. The County of San Benito (County) Board of Supervisors (Board), as the governing body of the Department of Public Health, Environmental Health Services Division, has the authority to authorize a local MEHKO program for the entire San Benito County region. If approved, the Board would be authorizing MEHKOs for both the incorporated and unincorporated communities and cities of San Benito County.

RESOLUTION OR ORDINANCE NEEDED FOR THIS ITEM:

Yes

CONTRACT NEEDED FOR THIS ITEM:

No

CONTRACT AND RFP HISTORY:

On April 13, 2021, the Board of Supervisors received a presentation from staff and discussed the potential adoption of an ordinance permitting Microenterprise Home Kitchen Operations (MEHKOs) to operate within the County of San Benito. No action was taken; however, the consensus was to present the item to the Intergovernmental Committee to discuss further and receive input from respective Cities, the City of Hollister and the City of San Juan Bautista.

The MEHKO item was presented to the Intergovernmental Committee on June 3, 2021, and it was agreed that representatives from both cities would take the item back to the respective governing bodies.

San Juan Bautista City Council, on June 15, 2021, heard and discussed Microenterprise Home Kitchen Operations in the City of San Juan Bautista. The consensus of the Council was to opt out of the program.

No definite input was received from the City of Hollister; when it was placed on the March 7, 2022, Hollister City Council meeting agenda for discussion.

On March 8, 2022, the Board received a second presentation from Legislative Aide Rexford Scott on the program, and Roya Bagheri, Executive Director of Cook Alliance, provided public comment. Cook Alliance had worked closely with the legislative office and other advocates to implement the MEHKO

program statewide.

On April 7, 2022, the intergovernmental committee requested that a secondary presentation be provided to each city impacted, the City of Hollister and the City of San Juan Bautista.

On April 19, 2022, the City Council of San Juan Bautista received their secondary presentation by Cook Alliance Executive Director Roya Bagheri. The Consensus was to move forward with the program.

On May 2, 2022, the City of Hollister received their secondary presentation, also by Roya Bagheri. The consensus was unclear, with no clear direction to move forward or opposition to the program.

On May 10, 2022, the Board directed staff to return with an ordinance authorizing a Microenterprise Home Kitchen Operations program for two years with a one-year review update from environmental Health; require a food safety certificate to be submitted as part of the MEHKO permit application; allow food storage in areas outside of the residence (including garages, outdoor sheds, workshops, etc.) only if stored inside an approved refrigerator or freezer and limited to areas inside the residence if not stored inside a refrigerator or freezer, maintain the maximum number of meals served (30 per day/ 60 per week); only allow one MEHKO to operate in each residence and delegated authority to staff to take necessary actions to implement directives from Board.

The following are some of the benefits of authorizing MEHKOs:

- MEHKOs create significant economic opportunities for small-scale, home cooking operations in which women primarily operate, immigrants, and people of color.
- Encourages existing "informal" home food operations to become safer and legal.
- Enables family members to continue providing in-home care for developmentally disabled and older families while still earning income.
- Creates another pathway to supplementing family income for those hardest hit by the COVID-19 pandemic and lockdowns.
- Enables aspiring entrepreneurs to try out and vet a menu while still learning the basics of what it takes to run a small-scale retail food operation.
- Provides additional food service options in remote locations.

LAST CONTRACT AMOUNT OR N/A:

N/A

STATE IF THIS IS A NEW CONTRACT/ HOW MANY PAST AMENDED CONTRACTS/ OR N/A:

N/A

STRATEGIC PLAN GOALS: 1. Operational Development & Excellence

Yes

STRATEGIC PLAN GOALS: 2. Planning And Sustainable Growth

Yes

STRATEGIC PLAN GOALS: 3. Technology

No

STRATEGIC PLAN GOALS: 4. Community Engagement

Yes

STRATEGIC PLAN GOALS: 5. Health & Safe Community

Yes

BUDGETED:

N/A

BUDGET ADJUSTMENT NEEDED:

N/A

SOURCE OF FUNDING:

N/A

UNFUNDED MANDATE:

N/A

SBC BUDGET LINE ITEM NUMBER:

N/A

CURRENT FY COST:

N/A

STAFF RECOMMENDATION:

1. Adopt Ordinance of the County of San Benito adding Chapter "Microenterprise Home Kitchen Operations" to Title 7 of the San Benito County Code of Ordinances temporarily authorizing a Microenterprise Home Kitchen Operations Program throughout the County of San Benito and incorporating by reference to the Health and Safety Code sections 113789, 113825, 114367, 114367.1 - 114367.6 and 114390.
2. Authorize the Clerk of the Board or designee to certify the passage and adoption of the ordinance and submit the ordinance or ordinance summary of the same to be published at least once, with the names of the members of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation in the County of San Benito, State of California, before the expiration of 15 days after passage. The ordinance shall take effect thirty (30) days from the date of its adoption.

BOARD ACTION RESULTS:

Adopted Ordinance No. 1046 per staff recommendation. (4/0 vote, Hernandez - Absent)

ATTACHMENTS:

[Assembly Bill 377](#)
[Assembly Bill 626](#)

MEHKO General Permit Requirements
MEHKO Internet Food Service Intermediary General Requirements
Proposed Ordinance Microenterprise Home Kitchen Operations
Pre-Adoption Summary MEHKO Ordinance