



**SAN BENITO COUNTY
AGENDA ITEM
TRANSMITTAL FORM**

Dom Zanger
District No. 1
Vice-Chair

Kollin Kosmicki
District No. 2
Chair

Mindy Sotelo
District No. 3

Angela Curro
District No. 4

Ignacio Velazquez
District No. 5

Item Number: 3.3

MEETING DATE: 05/20/2025

DEPARTMENT: COUNTY ADMINISTRATION OFFICE

AGENDA ITEM PREPARER: Gracie Rodriguez

DEPT HEAD/DIRECTOR: Henie Ring

SUBJECT:

COUNTY ADMINISITRATIVE OFFICE - H.RING, INTERIM COUNTY ADMINISTRATIVE OFFICER

Receive local Microenterprise Home Kitchen Operation (MEHKO) program update and options for continued authorization in San Benito County, Cottage Food Operation (CFO) Program options and other related content as appropriate, provide staff direction regarding authorization of a local MEHKO program, and provide direction based on new State law changes on additional opportunities to expand MEHKOS and CFO businesses through the use of carts. The Board Action on the MEHKO program is independent of the action on the CFO program.

SBC FILE NUMBER: 119

AGENDA SECTION:

REGULAR AGENDA

BACKGROUND/SUMMARY:

ENABLING LEGISLATION

On January 1, 2019, [California Assembly Bill 626 \(AB 626\)](#) went into effect and MEHKO was established as a new type of retail food facility that allows an individual to operate a restaurant in their private residence.

In October 2019, [California Assembly Bill 377 \(AB 377\)](#) was chaptered to make minor changes to AB 626 and provide regulatory clarity. Under AB 377, the law gives each county full discretion within their jurisdiction to authorize the MEHKOs program.

In September 2022, [California Senate Bill 972 \(SB 972\)](#) established "Compact Mobile Food Operations" to promote economic inclusion while modernizing the California Retail Food Code. The legislation

changes improve accessibility for sidewalk food vendors looking to obtain a permit. Additionally, SB972 allows for the expansion of a MEHKO to work in conjunction with up to two CMFOs. For more information on Compact Mobile Food Operations please visit [SB-972 California Retail Food Code](#).

On July 21, 2023, [California Assembly Bill 1325 \(AB 1325\)](#) was signed into law and immediately went into effect. AB 1325 allows a MEHKO to prepare no more than 90 meals per week and increased the verifiable gross annual sales to \$100,000 (adjusted annual for inflation). It also defines a “meal” to mean the amount or quantity of food that is intended to be consumed by one customer in one sitting. A meal may include one or more of any of the following:

- A main dish
- Appetizers
- Side dishes
- Beverages
- Baked Goods
- Desserts

BOARD ACTION

On September 27, 2022, the Board of Supervisors adopted ordinance 1046 authorizing a Microenterprise Home Kitchen Operations program for two years with a one-year update from Environmental Health; required 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 the Board.

On May 7, 2024, staff presented a status update on the temporary local MEHKO Program and Assembly Bill 1325. The Board was requested to provide direction regarding the continued authorization of a local MEHKO Program. An update on Senate Bill 972 was not provided on May 7, 2024.

On September 10, 2025, a resolution to extend the Sunset date for ordinance No. 1046 was adopted to allow the board to consider and provide direction on the additional opportunities provided by SB 972.

SENATE BILL 946 & 972 AND ADDITIONAL OPPORTUNITIES

Sidewalk vendors are a fixture in California’s communities and a part of the State’s vibrant community and culture. Sidewalk vending was decriminalized throughout California by Senate Bill 946 (SB 946) in 2019. However, California’s laws related to the sale of food were not updated then, and the ill-fitting regulations found therein made it nearly impossible for sidewalk vendors and other food-selling microbusinesses to comply, as those regulations were designed with restaurants and food trucks in mind. This left sidewalk vendors who sell food unable to secure a health permit from their relevant local regulatory agency - a permit treated as a prerequisite for most city business licenses. Without access to a health permit, sidewalk food vendors - many of whom are low-income immigrants - remained unable to formalize their business and were subject to harassment, excessive fines, and even criminal prosecution for pursuing their livelihood.

SB 972 revises the equipment, operational, and permitting requirements found in the CalCode to more safely and realistically accommodate microbusinesses like sidewalk food vendors and bring

entrepreneurs like sidewalk food vendors into the formal economy. Specifically, the bill revises certain equipment requirements, expands certain permitted food preparation practices, streamlines permitting processes for sidewalk food vendors and the operators of commercial kitchen spaces that will be used to support sidewalk vendors, and decriminalizes violations of CalCode by sidewalk food vendors (existing criminal penalties are replaced with fines). More detailed information can be found in Attachment *Legislative-Alert-SB-972-1*.

SB 972 creates a new type of food facility for sidewalk vendors: a nonmotorized cart that operates from a pushcart or stand and is allowed to prepare limited food (e.g., hot dogs, roasted corn, churros). Once evaluated and approved by San Benito Environmental Health (unless prohibited by a local zoning code), carts can be stored in additional areas, including a private home, when not in operation. SB 972 also:

- Allows the Board to authorize home-based businesses, including MEHKO and Cottage Food Operations (CFO), additional opportunities to expand their business using carts by allowing up to two carts to be operated by a home-based food business, serving non-potentially hazardous foods with the revenue not counting towards state law established limits.
- Allows the Board to authorize a MEHKO to serve as a commissary, an approved location where food preparation occurs to support mobile food carts operated by the MEHKO.
- Allows the Board to authorize a higher limit for the number of meals prepared and a higher gross annual sale, which is allowed if the MEHKO also operates a cart.

Authorization of any opportunities enacted through the latest changes in State law requires an amendment to the San Benito County Code of Ordinances. The “Options for Additional Opportunities for MEHKO Businesses” and “Option for Additional Opportunity for Cottage Food Operation Businesses” sections discuss new options for the Board to consider as the local governing body. The Board’s actions on the MEHKO Program (Options 1 through 4) are independent of the action on the CFO Program (Options 5).

OPTIONS FOR ADDITIONAL OPPORTUNITIES FOR MEHKO BUSINESSES

Option 1 – Authorize MEHKO Businesses to Sell Non-Potentially Hazardous Food with Carts

- Allow the sale of non-potentially hazardous foods, which do not require time or temperature control for food safety or produce for up to two carts operated by a MEHKO. Sales from the carts do not count towards the meal and gross annual sales limitations established in State law.
- Should the Board decline to act on Option 1, the sales and meals served by the MEHKO business would count towards the limitations established for MEHKO businesses as defined in State law or per the limits set by the Board in Option 3 and/or 4.

Option 2 - Authorize MEHKO to Operate as a Commissary for Carts

- Allow the MEHKO business to serve as a commissary, a location where carts can be cleaned and stored. If the business can demonstrate that it can safely support the preparation and storage of the food being sold from the carts and the storage and cleaning of the carts, food can be prepared for up to two carts operated by the MEHKO.
- Should the Board decline to act on Option 2, MEHKO businesses will not be allowed to serve as a commissary, as defined in State law, and would need to utilize a commercial kitchen for this purpose.

Option 3 – Increase the Number of Meals Allowed for MEHKO Businesses Operating a Cart

- According to State law, MEHKO operators can serve a maximum of 30 meals per day and no more than 90 meals per week. The Board has the flexibility to set a higher amount of meals per day and meals per week for MEHKO operators with carts.
- Should the Board not take any action or decline to act on Option 3, the number of meals per week will remain at the threshold amounts defined in State law.

Option 4 – Increase the Gross Annual Sales Allowed for MEHKO Businesses Operating a Cart

- Increase the gross annual sales that a MEHKO operating a cart can earn from \$100,000 to a maximum amount determined by the Board. The Board has the flexibility to set a higher gross annual sales amount that will allow a MEHKO operating a cart to generate.
- Should the Board decline to act on Option 4, the number of gross annual sales will remain at the threshold amounts defined in State law.

OPTION FOR ADDITIONAL OPPORTUNITY FOR COTTAGE FOOD OPERATION (CFO)

Option 5 – Authorize CFO Businesses to Sell Non-Potentially Hazardous Food with Carts

- Allow the sale of non-potentially hazardous food, which does not require time or temperature control for food safety or produce, for up to two carts operated by a CFO, with sales from the carts not counting towards the gross annual sales limitations established in State law.
- Should the Board decline to take action on Option 5, the CFO business sales would count towards the limitations established for CFO businesses as defined in State law.

ENVIRONMENTAL STATEMENT

Today's proposed actions are exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(c)(3) of the State CEQA Guidelines. Section 15061(c)(3) is applicable, providing that a

project is exempt from CEQA review where “it can be seen with certainty that there is no possibility the activity in question may have a significant effect on the environment.”

Today’s action seeks to authorize or decline the continuation of the existing Microenterprise Home Kitchen Operation (MEHKO) program, as well as request direction on potential changes to the MEHKO or Cottage Food Operation (CFO) Programs by allowing expansion to these home-based businesses, such as the possible addition of up to two carts and an increase in the number of meals or gross sales. Any potential changes to the MEHKO or CFO Programs would be subject to strict limitations on how many meals could be prepared, cooked, and served on the same day, as well as on a weekly basis, from each home-based business. Therefore, the action is exempt from CEQA review because it can be seen with certainty that the project would not significantly impact the environment.

RESOLUTION OR ORDINANCE NEEDED FOR THIS ITEM:

Yes

CONTRACT NEEDED FOR THIS ITEM:

No

RFP AND BID HISTORY:

N/A

LAST CONTRACT AMOUNT OR N/A:

N/A

CONTRACT HISTORY (Describe all amendments and previous contracts):

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. Receive local Microenterprise Home Kitchen Operation (MEHKO) program update and options for continued authorization in San Benito County, Cottage Food Operation (CFO) Program options and other related content as appropriate.
2. Provide staff direction regarding authorization of a local MEHKO program.
3. Provide direction based on new State law changes on additional opportunities to expand MEHKOS and CFO businesses through the use of carts. The Board Action on the MEHKO program is independent of the action on the CFO program.
4. Direct staff to return to the next regularly scheduled meeting with the selected policy options and corresponding ordinance(s) for first reading and introduction; waive the first reading and further reading of the ordinance(s); and authorize minor, non-substantive modifications as necessary with County Counsel approval.

ATTACHMENTS:

[Presentation - MEHKO & SB 972](#)

[Legislative-Alert-SB-972-1](#)

[Attach. A1 - Ord. Authorizing a MEHKO program - strikeout](#)

[Attach. A2 - Ord. Authorizing a MEHKO program - Clean](#)

[Attach. B1 - Ord. Declining a MEHKO program - strikeout](#)

[Attach. B2 - Ord. Declining a MEHKO program - Clean](#)

[Attach. C1 - Ord. Authorize a MEHKO to sell food with carts - strikeout](#)

[Attach. C2 - Ord. Authorize a MEHKO to sell food with carts - Clean](#)

[Attach. D1- Ord. Authorize MEHKO Businesses as a Commissary for Carts - Strikeout](#)

[Attach. D2- Ord. Authorize MEHKO Businesses as a Commissary for Carts - Clean](#)

Attach. E1- Ord. Authorize CFO Businesses to sell food with carts - Strikeout

Attach. E1- Ord. Authorize CFO Businesses to sell food with carts - Clean