



**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

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**Item Number: 2.3**

**MEETING DATE:** 09/13/2022

**DEPARTMENT:** BOARD OF SUPERVISORS

**AGENDA ITEM PREPARER:** Gracie Rodriguez

**DEPT HEAD/DIRECTOR:** Ray Espinosa

**SUBJECT:**

**BOARD OF SUPERVISORS**

Waive first reading, motion to accept introduction, waive further reading, and continue the matter to September 27, 2022, for the 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.

SBC FILE NUMBER: 156

ORDINANCE: 1046

**AGENDA SECTION:**

CONSENT AGENDA

**BACKGROUND/SUMMARY:**

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.

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 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 the Board.

#### **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.

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.

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. Find that the proposed ordinance presented for the Board of Supervisors today requires no additional environmental analysis, as it would be a discretionary decision to allow a new activity, with strict limitations. With those limitations, therefore, a finding can be made, with certainty, that allowing such activity would not have a significant effect on the environment pursuant to CEQA Exemption 15061(b)(3.)

2. Waive first reading, motion to accept formal introduction, and waive further reading of the ordinance entitled: 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, and;

~~3. Continue hearing until September 27, 2022, for the adoption of the ordinance. This ordinance shall take effect thirty days (30) days from the date of its adoption, and prior to the expiration of fifteen (15) days from the adoption, thereof shall be published at least one time in a newspaper of general circulation in San Benito County, with the names of the Supervisors voting for or against the same.~~

**AMENDMENT TO STAFF RECOMMENDATION #3**

3. Continue the adoption of the Ordinance to October 11, 2022. This ordinance shall take effect thirty (30) days from the date of its adoption, and prior to the expiration of fifteen (15) days from the adoption, thereof shall be published at least one time in a newspaper of general circulation in San Benito County, with the names of the Supervisors voting for or against the same or a summary may be published as allowed by law.

**ATTACHMENTS:**

[Assembly Bill 377](#)

Assembly Bill 626

MEHKO General Permit Requirements

MEHKO Internet Food Service Intermediary General Requirements

Proposed Ordinance Microenterprise Home Kitchen Operations