

MEETING DATE 12/6/2023 (1)

ORDINANCE NO. 10881 (NEW SERIES)

ORDINANCE AMENDING THE REGULATORY CODE RELATING TO MICROENTERPRISE HOME KITCHEN OPERATION (MEHKO) PROGRAM THROUGHOUT THE COUNTY OF SAN DIEGO TO ALLOW THE SALE OF NON-POTENTIALLY HAZARDOUS FOOD WITH CARTS

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Purpose.

The purpose and intent of this Ordinance is to allow for small-scale, direct food sales from home-based food facilities to prioritize locally prepared foods to consumers. This will allow small-scale entrepreneurs entry into the retail food economy and will help provide them with access to guidelines, training, and safety resources.

Section 2. Section 61.502 of the San Diego County Code is hereby added to read as follows:

SEC. 61.502. DEFINITIONS.

"CMFO" means "Compact Mobile Food Operation, including the use of carts, as defined in HSC section 113831(c).

"CRFC" means the California Retail Food Code, which is codified in the California Health and Safety Code (HSC).

"Department" means the County Department of Environmental Health and Quality.

"Director" means the Director of Environmental Health and any person appointed by the Director to enforce or administer this chapter.

"Enforcement Officer" means the Director of Environmental Health and their duly authorized designees and any person appointed by the Director to enforce or administer this chapter.

"HSC" means the California Health and Safety Code.

"MEHKO" means "Microenterprise Home Kitchen Operation" as defined in HSC Section 113825.

"MEHKO Operator" means the resident of the private home who holds the permit for the MEHKO and is responsible for the operation.

"Potable Water" means water that complies with the standards for transient noncommunity water systems pursuant to the California Safe Drinking Water Act, commencing with HSC 116270, to the extent permitted by federal law.

"Resident of a Private Home" means an individual who resides in the private home when not elsewhere for labor or other special and temporary purposes.

Section 3. Section 61.504 of the San Diego County Code is hereby added to read as follows:

SEC. 61.504. OPERATIONAL REQUIREMENTS AND PROHIBITIONS APPLICABLE TO MEHKO OPERATORS.

Consistent with, and in addition to, the operational requirements and exemptions set forth in California HSC Section 114367, et seq., a MEHKO shall comply with all of the following:

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- (a) The MEHKO Operator shall successfully pass an approved and accredited Food Safety Certification Examination, in compliance with HSC Section 113947.1, and submit proof of certification with the permit application for a MEHKO operation.
- (b) Any person(s) participating in the MEHKO shall obtain a San Diego County Food Handler Certification issued by the Department within ten (10) days of such participation as specified in HSC 113948.
- (c) All food storage within the permitted area shall comply with Chapter 4, Article 5 of the CRFC. Any other detached rooms on the premises, including accessory buildings and garages, may be used to store food items only if all food is stored inside of an approved refrigerator and/or freezer with a closable door/lid. Sleeping quarters or second units are not included as a permitted area.
- (d) Only one MEHKO may operate per residence.
- (e) MEHKO Operators whose potable water supply comes from a private well shall submit with their permit application sample results verifying the water supply meets at minimum a “Transient Non-Community Water System” standard, as defined in HSC Section 116275(o). Sample results shall include nitrate, nitrite, bicarbonate, carbonate and hydroxide alkalinity, calcium, iron, magnesium, manganese, pH, specific conductance, sodium, total hardness and bacteriological water quality.
- (f) MEHKO Operators whose permits are initially approved, shall submit annually with the MEHKO permit renewal, updated nitrate, nitrite and bacteriological water sample results that show the water supply continues to meet “Transient Non-Community Water System” potable water standards. MEHKOs served by a public water system with groundwater sources shall submit documentation that water supply meets at minimum Transient Non-Community water quality standards.
- (g) Food prepared in a MEHKO may be served from a compact mobile food operation (CMFO) operated by a MEHKO permitholder pursuant to HSC Section 114368.3(a)(5). A CMFO shall not sell food other than non-potentially hazardous prepackaged food or whole produce, or conduct any food preparation, unless it meets the applicable operational requirements of the HSC Chapter 11.7.
 - (i) The meal and gross annual sales limitations in paragraph (7) of subdivision (a) of HSC Section 113825 do not apply to the sale of non-potentially hazardous food or produce for up to two CMFOs operated by the MEHKO pursuant to HSC Section 114368.3(a)(6).

Section 4. Effective Date. This Ordinance shall take and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in the Daily Transcript, a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
Claudia G. Silva, County Counsel
BY: Gregory L. Lusitana, Senior Deputy County Counsel

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 6th day of December 2023.



NORA VARGAS
Chair, Board of Supervisors
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Vargas, Anderson, Montgomery Steppe, Desmond
NOT PRESENT: Lawson-Remer

ATTEST my hand and the seal of the Board of Supervisors this 6th day of December 2023.

ANDREW POTTER
Clerk of the Board of Supervisors

By 
Sidra Marshall, Deputy



Ordinance No.: 10881 (N.S.)
Meeting Date: 12/6/2023 (01)