



COUNTY OF SAN DIEGO

BOARD OF SUPERVISORS

1600 PACIFIC HIGHWAY, ROOM 335, SAN DIEGO, CALIFORNIA 92101-2470

AGENDA ITEM

DATE: September 15, 2021

02

TO: Board of Supervisors

SUBJECT

AUTHORIZING MICROENTERPRISE HOME KITCHEN OPERATIONS IN SAN DIEGO COUNTY (DISTRICTS: ALL)

OVERVIEW

Microenterprise Home Kitchen Operations (MEHKOs) were created via Assembly Bill (AB) 626 which was passed unanimously by the State Assembly and Senate and signed into law by Governor Brown on September 18, 2018. AB 377 (AB 626 clean-up bill) was signed into law by Governor Newsom on October 7, 2019.

This legislation permits counties to authorize individuals to use their home kitchens to prepare, sell and serve up to 30 meals per day, or 60 meals per week, and collect a maximum annual revenue of \$50,000. Family members can be employed to help operate MEHKOs, along with a maximum of one paid non-family employee. Menus are restricted to items that can be prepared and sold the same day. Risky food preparation techniques are prohibited, therefore MEHKOs may not produce, serve, or use raw milk, or serve raw oysters or any other food requiring a Hazard Analysis Critical Control Point Plan (a written plan specifying procedures for maintaining food control throughout the entire food preparation, distribution, and storage process). Meals can be served in the home, picked up by the customer, or delivered by the MEHKO operator.

California Department of Public Health authorized online intermediaries, such as Foodnome, provide the mechanism to place an order with a MEHKO. They also provide a way to promote MEHKOs while collecting required taxes on behalf of the MEKHO operators. MEHKOs require a valid health permit through the Department of Environmental Health and Quality, an initial inspection and annual inspections thereafter. MEHKO owners are required to obtain a Food Manager certificate and employees are required to obtain a Food Handler card.

Since the state established MEKHOs, over 140 MEHKOs have been authorized by the following seven jurisdictions: Alameda County, the City of Berkeley, Imperial County, Lake County, Riverside County, Santa Barbara County, and Solano County. Additionally, two counties, San Bernardino and San Mateo have authorized a MEKHO pilot program.

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Since the first MEHKO was authorized in May of 2019, there have been no known cases of MEHKO-related food born illness.

The following are benefits to authorizing MEHKOs:

- Creates significant economic opportunities for small-scale, home-cooking operations, which are primarily operated by women, 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 family members and older family members while still earning much needed income
- Creates another path to supplementing family income for those hardest hit the by the COVID-19 pandemic and lockdowns
- Enables aspiring restaurateurs to try out and vet a menu while learning the basics of what it takes to run a small-scale retail food operation
- Provides additional food service options in remote locations
- MEHKOs pay state taxes and acquire business licenses
- San Diego County’s Department of Health and Environmental Quality (DEHQ) has already developed a programmatic framework to implement and administer a MEHKO ordinance.

RECOMMENDATION(S)

SUPERVISOR JOEL ANDERSON AND SUPERVISOR NORA VARGAS

1. Direct the Chief Administrative Officer to return to the Board within 120 days with an ordinance authorizing MEHKO operations in San Diego County, consistent with state law.
2. Direct the Chief Administrative Officer to conduct community / local municipalities outreach and provide opportunities for public input during the drafting of the MEHKO ordinance.
3. Direct the Chief Administrative Officer to implement a public education program for small volume home-based retail food operations and food safety, following the adoption of a MEHKO ordinance. This education should include suggestions and general guidance on being a good neighbor while running a small volume retail food operation, including considerations of land use, traffic, parking, noise and the importance of appropriate disposal for grease and other food-related waste.

EQUITY IMPACT STATEMENT

Experience with existing MEHKOs shows over 90 percent of them are operated by persons of color and 60 percent are operated by women. Consequently, authorizing MEHKOs in San Diego County provides an opportunity to implement public policy that will benefit communities of color, women, their families, and the community. It will also benefit those of limited income who have the entrepreneurial spirit and the desire to enrich their community through their cooking.

FISCAL IMPACT

There is no fiscal impact associated with the requested action. All costs will be covered by the MEHKO operator permit fees. There will be no change in net General Fund cost.

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BUSINESS IMPACT STATEMENT

MEHKOs will create another avenue for San Diego county residents to create significant new income for their families. An in-depth Foodnome survey found that over 90 percent of MEHKOs in other counties are being operated by persons of color. Therefore, formally permitting MEHKOs to operate in San Diego County will have a positive impact on San Diego's communities of color, and women entrepreneurs. Further, legally permitted MEHKOs can serve as incubators for aspiring restaurateurs to try out and vet a menu while learning the basics of what it takes to run a small-scale retail food operation.

ADVISORY BOARD STATEMENT

NA

BACKGROUND

State law enacted in 2019 and 2020 allows jurisdictions to authorize Microenterprise Home Kitchen Operations in California. To date, seven municipalities have authorized the operation of MEHKOs, providing a legal process for individuals to prepare, sell and serve meals in their own kitchens. During the two-year period that MEHKOs have been permitted to operate in the state, the results have been positive and include the following findings:

- Over 140 MEHKOs are already operating in California with no known incidences of food borne illness. To date, there have been no MEHKO-related issues around the disposal of food waste such as grease.
- According to an in-depth survey conducted by Foodnome, over 90 percent of MEHKOs to date are operated by persons of color and 60 percent by women.
- Based on research of informal food marketplaces like Craigslist, Facebook Marketplace, and WeChat, Matt Jorgensen, founder of COOK Alliance, estimates that at least 50,000 to 100,000 home cooks are currently selling food illegally in California. (2018 estimate)
- State law (AB 626 and AB 377) provides an option for the tens of thousands of persons operating in California's "informal" food economy to become part of California's legal food economy through microenterprise home kitchen operations (MEKHOS).
- MEHKO regulations require all prepared meals be sold on the same day.
- California is home to the "farm-to-table" movement, which embraces the idea that restaurants and other food sellers should prioritize locally and sustainably produced foods.
- The COOK Alliance poll found that 30 percent of those participating in the informal food economy are first generation immigrants.
- Under existing law, individuals can only sell food legally through retail food facilities or cottage food operations, the latter of which being limited to a restricted list that primarily consists of nonperishable food items that can be prepared in the home.
- Polling identifies 48 percent of those participating in the informal food economy to be of African American, Hispanic or mixed race.
- Because San Diego has not opted in to allow MEHKOs, home cooks are unable to use their homes to legally participate in the locally prepared food economy and earn an income. Consequently, microentrepreneurs cook out of private homes or unlicensed food facilities, without formal requirements for education on best practices or safety guidelines.
- Many cooks are unable to enter the traditional food economy based on disability, family

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responsibilities, or lack of opportunity.

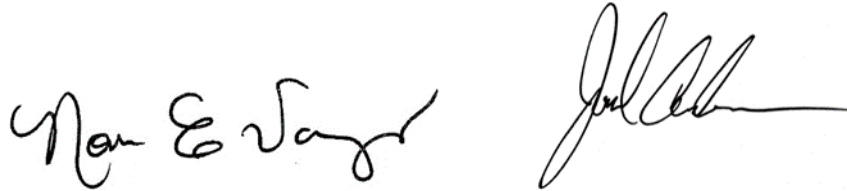
- Under existing law, preparing and selling food from a home kitchen can be treated as a criminal act and may be punishable as a misdemeanor.
- Providing guidelines, training, and safety resources to home cooks would increase public health safeguards in existing informal food economies.

The exchange of home-cooked food can improve access to healthy foods for communities, particularly in food deserts with severely limited options.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

The Board of Supervisors' authorization of Microenterprise Home Kitchen Operations will contribute to San Diego County's vision of a region that is safe, equitable, healthy, and thriving.

Respectfully submitted,

The image shows two handwritten signatures in black ink. On the left is the signature of Nora E. Vargas, which is written in a cursive, flowing style. On the right is the signature of Joel Anderson, also in cursive, with a long horizontal stroke extending to the right.

Supervisor Nora Vargas, District One

Supervisor Joel Anderson, District Two

ATTACHMENT(S)

N/A

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AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: ☐ Yes ☒ No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED

☐ Yes ☒ No

PREVIOUS RELEVANT BOARD ACTIONS:

NA

BOARD POLICIES APPLICABLE:

NA

BOARD POLICY STATEMENTS:

NA

MANDATORY COMPLIANCE:

NA

**ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION
NUMBER(S):**

NA

ORIGINATING DEPARTMENT: Supervisor Joel Anderson, District 2

OTHER CONCURRENCE(S): NA

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