



# COUNTY OF SONOMA

575 ADMINISTRATION  
DRIVE, ROOM 102A  
SANTA ROSA, CA 95403

## SUMMARY REPORT

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**Agenda Date:** 12/3/2024

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**To:** County of Sonoma Board of Supervisors  
**Department or Agency Name(s):** Department of Health Services  
**Staff Name and Phone Number:** Jennifer Solito, 707-565-4774  
**Vote Requirement:** Majority  
**Supervisorial District(s):** Countywide

**Title:**

Microenterprise Home Kitchen Operations - Second Reading

**Recommended Action:**

Adopt an Ordinance entitled “An Ordinance of the Board of Supervisors of the County of Sonoma, State of California, Amending Chapter 14 of the Sonoma County Code to conditionally authorize Microenterprise Home Kitchen Operations.” (Second Reading)

**Executive Summary:**

Microenterprise Home Kitchen Operations (MEHKOs) are small-scale, retail food facilities authorized for establishment by counties under Assembly Bills 626 (2018), 377 (2019), and 1325 (2023), allowing individuals to run small restaurants (dine-in or take-out) from their private residences. MEHKOs provide home-based business opportunities, particularly for those with limited access to capital or facing industry entry barriers such as child or elder-care responsibilities. MEHKOs can also increase community access to healthy food, offering options for cultural or regional foods that may not be available locally.

**Discussion:**

On October 22, 2024 at a regular meeting, the Board of Supervisors introduced and approved the first reading of the proposed ordinance entitled “An Ordinance of the Board of Supervisors of the County of Sonoma, State of California, Amending Chapter 14 of the Sonoma County Code to conditionally authorize Microenterprise Home Kitchen Operations”.

In June 2023, the State of California allocated funding through Assembly Bill AB 178, as part of the Budget Act of 2022, to support the implementation of MEHKOs programs.

**Operating Requirements for MEHKOs**

MEHKOs must operate according to rules and requirements outlined in the legislation to assure public safety and conformance with local land uses. These include:

**1) Permitting Requirements:**

- a) MEHKOs must operate in the operator's primary residence. Second homes, vacation homes, and motor homes are not eligible. As is explained in more depth below, areas where MEHKOs would violate the city or county general plan are also not eligible.
- b) No auxiliary kitchens or outdoor signage are permitted.

- c) Property owner approval is required if the residence is leased.
- d) Required Permits and Certifications:
  - i) Health Permit from Sonoma County Environmental Health.
  - ii) Food safety manager certification for the operator and a food handler card for all employees or others working in the establishment.
  - iii) Public water system permits from the State Water Resources Control Board's Division of Drinking Water may be required for residents using a private well water system per state law.

**2) Operational Standards:**

- a) Food must be prepared, cooked, and served on the same day within the residence's kitchen.
- b) Sales are limited to 30 meals per day or 90 meals per week, with gross annual sales capped at \$100,000.
- c) Meals can be consumed on-site, picked up, or delivered by the operator or a registered intermediary. Third-party delivery services, catering, and resale are prohibited.
- d) A properly charged and maintained 10 BC-rated fire extinguishers, which indicates it can put out an electrical or fuel accelerated fire under 10 square feet, and a first aid kit must be accessible within the kitchen.

**3) Health and Safety:**

- a) No food preparation, packaging, or handling may occur concurrently with domestic activities.
- b) Only service animals are allowed in the kitchen and dining areas during food service and preparation.
- c) Equipment and utensils must be smooth, easily cleanable, and sanitized before each use.
- d) MEHKOs are subject to annual inspections and must comply with all relevant Health and Safety Code requirements.

**4) Other Restrictions:**

- a) MEHKOs cannot operate as commissaries, mobile support units, or engage in food processes requiring a Hazard Analysis and Critical Control Point (HACCP) plan. This is a systematic approach to food safety that identifies and controls potential hazards in the food production process.
- b) Raw milk products and raw oysters are prohibited.
- c) Only one MEHKOs is permitted per site, and it cannot operate alongside a Cottage Food Operation.

**MEHKOs Ordinance Overview**

When a County opts into the MEHKOs program, it automatically applies within city limits (Health & Safety Code § 114367), and cities cannot opt out. MEHKOs are classified as by-right uses in residential zones, meaning they are not subject to additional local zoning or building regulations.

The Environmental Health (EH) Section, within DHS, serves as the enforcement agency, implementing the Retail Food Safety Program per California Health and Safety Code Chapter 11.6 Section 114367. One routine inspection is conducted within a 12-month period, with additional inspections allowed following complaints or on an emergency basis. MEHKOs are exempt from placarding/grading systems, and annual permit renewal is required.

Partner agencies, including County Code Enforcement (in unincorporated areas), cities, and city police, and fire departments, are responsible for enforcing regulations related to signage, noise, nuisances, crowding, traffic, parking issues, and garbage overflow.

### **General Plan Compliance and California Environmental Quality Act Compliance**

Policy AR-6b and 6d in the County's General Plan disallows restaurants and other similar uses in areas designated for agricultural use. This includes the general plan designations of Diverse Agriculture, Land Extensive Agriculture, and Land Intensive Agriculture. Bed and breakfasts are allowed on some agricultural lands, but only in Diverse Agriculture Land Extensive Agricultural areas, and not in other agricultural areas. These policies were adopted as mitigation measures in the County's General Plan's Environmental Impact Report to protect agricultural lands, and they cannot be changed without both a General Plan amendment and accompanying environmental review. Findings explaining why the mitigation measure is no longer needed would also be required. It should be noted that these policies have been central to winery permitting and use permit conditions.

Staff proposes that the County opt into the MEHKO statute with the restriction that MEHKO permits not be issued in areas where they would conflict with the county or city general plans. Staff have received some informal correspondence objecting to this approach from pro-MEHKO advocates, but it is legally required and facilitates adoption. The MEHKO statute prohibits zoning restrictions on MEHKOs, but the statute does not address general plan compliance. Courts have stated that the general plan is the "constitution for all future developments" within a city or county, and "the propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements." In some counties MEHKOs do not present General Plan issues, but in Sonoma County they do. Notably, Napa County is in a similar situation and has not opted into the MEHKO statute due to general plan compliance issues.

The requirement of general plan compliance allows the County to opt in without a concurrent general plan amendment and without developing an expensive CEQA review document that looks at both city and county environmental issues. The approach also addresses objections from the cities. Since Staff proposed this approach, many of the previously objecting cities have been much more supportive of the proposal.

With general plan compliance required, Staff concludes that two CEQA exemptions are applicable. The proposed resolution and ordinance find that the action is exempt from CEQA under Guidelines Section 15061 (b)(3) (Common Sense) because it can be seen with certainty that there is no possibility that adoption of this ordinance may have a significant effect on the environment. In addition, the Ordinance is exempt pursuant to CEQA Guidelines Section 15305 (minor alterations in land use limitations) in that no changes to density or land use will be permitted, and all kitchen operations will be in already developed, level residences with no outdoor construction or grading issues.

### **Community Outreach and Data**

In 2021, the County explored the option of opting into a MEHKOs ordinance and received written comments from the Town of Windsor, City of Rohnert Park, City of Cotati, City of Sebastopol, City of Santa Rosa, and City

of Petaluma. While cities were generally supportive of the program's goals, opinions on whether the County should opt in were mixed.

In 2024, having revised the proposal with respect to general plan compliance, DHS presented the MEHKOs program proposal at the July 2024 City Managers meeting and to City Mayors at their meeting on September 12, 2024. EH leadership subsequently attended and presented at the following City Council Meetings:

- City of Cotati, August 13, 2024
- City of Sonoma, August 21, 2024
- City of Rohnert Park, August 27, 2024
- City of Petaluma, September 16, 2024

The Town of Windsor and Cities of Santa Rosa, Cloverdale, Healdsburg and Sebastopol have not requested a presentation and attendance at their City Council meetings; although, they have been in attendance at the City Managers and City Mayors meetings. The cities unanimously showed support for Staff's proposed approach to the MEHKOs ordinance and shared support for collaborating on the implementation of the program.

Currently, approximately 15 California jurisdictions have opted into the MEHKOs program (Riverside, Santa Barbara, San Diego, Solano, San Mateo, San Benito, Santa Clara, Alameda, Amador, Imperial, Sierra, Monterey, Lake, Contra Costa and the City of Berkeley) and 17 jurisdictions are considering a MEHKOs program (City of Vernon, Mariposa, Inyo, Trinity, Tehama, Mendocino, Nevada, Marin, Santa Cruz, City of Long Beach, Contra Costa, Sonoma, Fresno, Los Angeles, Mono, Humboldt, and El Dorado).

When properly regulated and supported by environmental health agencies, MEHKOs serve as a vehicle to advance economic equity goals through a safe business initiative and provide an approachable point of entry for entrepreneurs. A quick data search through the California Conference for Directors of Environmental Health shows between 75-80% of all MEHKOs are operated by minority women with 90% of these operations conducted as take out or delivery only.

To provide continued support for entrepreneurs and access to technical questions, information, and business requirements, a cross-departmental and community-based organizational group has convened in recent months to distill this information into legible how-to guides and steps. Participants in this group bring a breadth of experience from local government to technical assistance providers and community conveners:

- Permit Sonoma
- Environmental Health
- Economic Development Collaborative
- Red LatinX the Hub
- Los Cien Sonoma County

Content is intended to remain "evergreen" (existing beyond one moment in time) and once finalized, will be available in multiple languages to ensure access to all business owners and community members throughout the county on a virtual platform called the Sonoma County Business Help Center (Business Help Center).

The Business Help Center is intended to operate as an online database of information and resources for business owners across industries and at varying stages whether they're looking to start a new business,

expand operations or move locations to support business entity compliance and understanding in regulations.

**Implementation**

If the Board approves the Ordinance, it will go into effect thirty (30) days after the date of its passage, subject to further noticing requirements. Implementation of the program will include bilingual educational and operational guides, videos, FAQs, application material and bilingual outreach meetings with community and local community groups. MEHKO program information will be available on the Department website and information share with the cities.

An advisory committee will be developed with invitations to community groups and leaders in addition to a regular code enforcement working group to coordinate with local cities.

**Errata**

The following non-substantive “scrivener’s errors” are corrected in the second reading proposed for adoption: 1) The inadvertent identical duplication of sections I, II, III and IV has been eliminated, and the numbering has been corrected. In Exhibit A, the spelling of “Board of Supervisors” has been corrected in section 14-3-070 subdivision (a), and in subdivision (j)(3), the name of the county has been corrected.

**Strategic Plan:**

N/A

**Racial Equity:**

**Was this item identified as an opportunity to apply the Racial Equity Toolkit?**

Yes

The proposal provides opportunities for disadvantaged persons wishing to start up a home-based food business with fewer restrictions and a lower barrier to entry. MEHKO's increase community access to healthy food by offering cultural and regional foods that may not be available locally. Implementation of this program will provide a path forward for many small-scale businesses already operating by lowering the barriers to entering into a home-based food business and increasing food safety practices. See Attachment 4 for full Racial Equity Analysis.

**Prior Board Actions:**

October 22, 2024 the Board adopted a Resolution introducing, reading the title of, and waiving further reading of “An Ordinance of the Board of Supervisors of the County of Sonoma, State of California, Amending Chapter 14 of the Sonoma County Code to conditionally authorize Microenterprise Home Kitchen Operations”; and further determining that the ordinance amendment is exempt from the California Environmental Quality Act. The Board also adopted a Resolution authorizing budgetary adjustments in the amount of \$138,015 to the fiscal year 2024-2025 adopted budget to reflect revenues and expenditures associated with the Micro-Enterprise Home Kitchen Operations Program awarded to the Sonoma County Department of Health Services.

May 14, 2024 the Board authorized the Director of the Department of Health Services, or designee, to enter into a grant acceptance agreement with California Conference of Directors of Environmental Health, for a Micro Enterprise Home Kitchen Operations AB 178 Grant Award, through the term of the grant, May 31, 2025, in the amount of \$138,015, in form approved by County Counsel.

September 14, 2021 the Board provided direction to staff about whether to further consider authorizing

Microenterprise Home Kitchen Operations.

**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY24-25 Adopted</b>	<b>FY25-26 Projected</b>	<b>FY26-27 Projected</b>
Budgeted Expenses			
Additional Appropriation Requested			
<b>Total Expenditures</b>			
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
General Fund Contingencies			
<b>Total Sources</b>			

**Narrative Explanation of Fiscal Impacts:**

There is no fiscal impact associated with this item.

<b>Staffing Impacts:</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A-I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

- Attachment 1 - MEHKO Proposed Ordinance
- Attachment 2 - Post-Adoption Summary
- Attachment 3 - DRAFT CEQA Notice of Exemption
- Attachment 4 - Racial Equity Analysis

**Related Items "On File" with the Clerk of the Board:**

None