



SUMMARY REPORT

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**Agenda Date:** 10/22/2024

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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; Christine Sosko 707-565-

**Vote Requirement:** 4/5th

**Supervisorial District(s):** Countywide

**Title:**

Microenterprise Home Kitchen Operations

**Recommended Action:**

- A) Consider and potentially adopt 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. (First Read)
- B) Adopt 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.

(4/5th Vote Required)

**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. They can also increase community access to healthy food, offering options for cultural or regional foods that may not be available locally.

The County may opt into the proposed MEHKOs program by ordinance, which would allow for the permitting of MEHKOs in both the unincorporated county and its cities. This item includes a proposed ordinance (Attachment 1) and resolution (Attachment 2) for potential introduction of such an ordinance. Staff proposes to opt into the MEHKO program, permitting MEHKOs only in areas where they are permitted by the city or county’s general plan. This addresses city objections and obviates the need for county General Plan amendment with accompanying review under the California Environmental Quality Act (CEQA).

This item now requests Board authorization of budgetary adjustments in the amount of \$138,015 to the fiscal year 2024-2025 adopted budget to reflect revenues and expenditures associated with the MEHKOs Program awarded to the Sonoma County Department of Health Services, hereinafter “DHS” or “the Department”, (Attachment 3).

**Discussion:**

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 extinguisher, 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.

### **Policy Options and Recommendations**

The Department recognizes the importance of creating additional opportunities for small-scale food businesses and is committed to fostering equity and diversity within Sonoma County. The Department is presenting three options before the Board due to the requirements under the MEHKO statute.

1. Option 1 (Recommended): Opt into the MEHKO statute via the proposed ordinance, allowing MEHKOs in any residence with the exception of those areas where they are prohibited by the city or county general plans.
2. Option 2: Rather than opting into the MEHKO statute at this time, or in addition to doing so under Option 1, direct Permit Sonoma and the Department of Health Services to return with a proposed general plan amendment and environmental review document to facilitate opting into the MEHKO statute more broadly.
3. Option 3: Do not opt into the MEHKO statute via the proposed ordinance.

### **Environmental Health Customer Service Liaison**

The Department of Health Services, EH Section serves as the primary gateway for entrepreneurs venturing into the food industry in Sonoma County. Navigating the complex terrain of regulatory requirements is a crucial step for any aspiring entrepreneur, particularly those bringing regional specialties to the table. Many individuals with exceptional culinary talents find themselves at a loss when faced with the intricate permitting processes and essential steps necessary for establishing a successful food business. This is especially true for entrepreneurs from diverse backgrounds, underscoring the importance of equity in accessing resources and support.

Entrepreneurs entering the food industry in Sonoma County often possess remarkable culinary skills but are unfamiliar with the regulatory landscape governing food businesses. They may arrive at Environmental Health after engaging with other agencies, seeking answers to queries regarding business licenses or while finalizing a building lease, unaware of the essential steps required for compliance and ultimate success. With each food business operation presenting unique requirements, navigating the permitting process can be daunting without expert guidance. This highlights an urgent necessity for a dedicated role within Environmental Health that is focused on guiding and supporting these entrepreneurs through the regulatory maze while promoting equity and inclusivity.

The Department is considering adding an Environmental Health Customer Service Liaison position to serve as a crucial link between aspiring food business owners and regulatory authorities. Possessing comprehensive knowledge of Sonoma County's regulatory framework, this liaison will act as the initial point of contact for individuals wanting to venture into the food industry. Their responsibilities will encompass clarifying the myriad options and processes associated with initiating a food business, tailored to the specific needs, location, and operation type of each enterprise. This role will entail coordinating with other pertinent agencies such as Permit Sonoma, Auditor Controller, Economic Development Board (EDB), Community Development, and City departments. Among the many responsibilities they would assume, some of the primary roles of the

position include:

- Developing and implementing policies and procedures to address customer service needs.
- Providing front counter assistance to disseminate information and guide individuals through the permitting process.
- Creating educational materials focused on food safety and regulatory compliance.
- Cultivating positive relationships with external resources to streamline communication and enhance operational efficiency.
- Interacting with clients via phone and email, offering exceptional customer service to resolve queries and navigate permitting obstacles.
- Conducting ongoing customer service training for Environmental Health staff.

The establishment of the Environmental Health Customer Service Liaison position will facilitate the seamless entry of entrepreneurs into the food industry in Sonoma County. By serving as a knowledgeable guide and advocate, this liaison will not only foster compliance with regulatory standards but also nurture the growth and success of food businesses, particularly those emerging from diverse populations that face barriers to entering the industry, thereby contributing to the vibrancy of the local economy and ensuring public health and safety.

If the Board decides to adopt the MEHKO ordinance, staff will return with that action and a request for additional staff. The program expects to absorb current fiscal year oversight costs with existing staff. Position costs are estimated at \$241,135 and the program is exploring available funding to bring forward with the future request.

**MEHKO Block Grant**

On May 14, 2024, the Board authorized the Director to enter into a grant acceptance agreement with California Conference of Directors of Environmental Health (CCDEH), 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. Sonoma County was awarded \$138,015 to foster these home-based food businesses, which provide economic opportunities for individuals with limited access to capital, promoting greater equity and diversity in the food service industry. Funding must be expended by May 31, 2025 and will be used for direct support in implementing the MEHKO program, including program development, public outreach, offsetting permit fees, and enforcement. Implementation will be supported by technical assistance provided by CCDEH.

**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 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:**

September 14, 2021 the Board provided direction to staff about whether to further consider authorizing Microenterprise Home Kitchen Operations.

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.

**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	\$138,015		
<b>Total Expenditures</b>	<b>\$138,015</b>		
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal	\$138,015		
Fees/Other			
Use of Fund Balance			
General Fund Contingencies			
<b>Total Sources</b>	<b>\$138,015</b>		

**Narrative Explanation of Fiscal Impacts:**

This item requests the adoption of a resolution adjusting the FY 2024-2025 adopted budget by increasing revenues and expenditures by \$138,015 using funds from the MEHKO grant award. Funding from this grant must be expended by May 31, 2025. Of the \$138,015 award, \$110,412 (80%) of funding will provide direct support in implementing the MEHKO program, including program development, public outreach, enforcement, and \$27,603 (20%) in offsetting permit fees. The ongoing program will be funded through applicable fees and the department will continue to seek grants and external funding to support the program and customer service liaison needs. Customer Liaison FY 25-26 costs are estimated at \$241,135.

<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>

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**Agenda Date:** 10/22/2024

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

N/A

**Attachments:**

Attachment 1 - MEHKO Proposed Ordinance

Attachment 2 - MEHKO Resolution

Attachment 3 - Budget Resolution

Attachment 4 - Racial Equity Analysis

Attachment 5 - Pre-Adoption Summary

Attachment 6 - Presentation

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

None