



# OFFICE OF THE COUNTY ADMINISTRATOR

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## COUNTY OF SONOMA

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July 26, 2021

Re: State's Microenterprise Home Kitchen Operations (MEHKO)

Dear City Managers:

The purpose of this letter is to request your city's official position with respect to a regulatory decision that the Sonoma County Board of Supervisors will be considering that would have effects within your jurisdiction. The decision that is being considered is whether the County will "opt in" to the State's Microenterprise Home Kitchen Operations (MEHKO) law. As explained more fully below, if the County opts in, that decision will also apply within the city limits.

MEHKOs, are a new type of retail food facility, created by Assembly Bills 626 (2018) and 377 (2019), that will allow an individual to operate a small scale restaurant (dine in or take out) in their private residence. In enacting Assembly Bills 626 and 377, the Legislature observed that "Small-scale, home-cooking operations can create significant economic opportunities for Californians that need them most — often women, immigrants, and people of color." The Legislature sought to create opportunities for small scale businesses, and to address barriers for entry to disadvantaged persons. The Legislature also found that many of these small scale businesses already exist, and that they should be legalized and regulated so that they can operate with appropriate food safety regulation. Accordingly, Assembly Bills 626 and 377 amended California Retail Food Code to allow MEHKOs in a private home to be sold directly to the public. To date, Riverside County, Solano County, Santa Barbara County, Alameda County, and the City of Berkeley have opted in and have active programs. San Mateo has opted in on a pilot basis but does not have an active program due to staffing issues.

The Sonoma County Department of Health Services believes that a MEHKO program can be operated safely and that the program will provide economic opportunities to the community, not to mention vibrant and diverse food options.

To help inform your position, please consider the following:

- The County must opt in via resolution or ordinance for MEHKOs to be permitted. Because the Department of Health Services is the food permitting and enforcement agency within the County, if the County elects to opt into the program, that legal decision will apply within the city limits as well. (Health & Safety Code § 114367) There is no “opt out” provision for cities. Put another way, this is legally an “opt in” or “opt out” decision for the County as a whole.
- If the County opts in, then a MEHKO will automatically be a permitted use in any private home, both in the unincorporated area and within city limits, provided that the MEHKO is operated by a resident of the home. (§ 114367) Zoning ordinances cannot prohibit or regulate MEHKOs, and the County and cities also cannot impose new requirements via the building code. The law allows for the enforcement of noise and nuisance ordinances. (§ 114367.4)
- The MEHKO law specifies that food preparation is limited to 30 meals per day or 60 meals per week. MEHKOs may not have more than one full-time equivalent food employee, not including a family member or household member. The MEHKO may not exceed \$50,000 in verifiable gross annual sales, as adjusted for inflation. Food must be prepared, cooked and served on the same day. (§ 113825) Outdoor signage and advertising will not be permitted, but food may be sold via the internet. (§§ 114367.4, 114367.6)
- Customers may dine in, pick up, or have food delivered. (§ 113825) Delivery to the consumer must be done by an employee of the MEHKO, a family member, or household member of the MEHKO permit holder. (§ 114367.5)

In making this decision, the County greatly appreciates you taking the time to provide your valuable input. We are asking that you respond in writing no later than August 16, 2021. If you have questions, please feel free to contact Christine Sosko, Director of Environmental Health, at (707) 565-6521 or at [Christine.Sosko@sonoma-county.org](mailto:Christine.Sosko@sonoma-county.org).

Sincerely yours,



Sheryl Bratton  
County Administrator