



County of San Diego

DEPARTMENT OF ENVIRONMENTAL HEALTH

FOOD AND HOUSING DIVISION

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Microenterprise Home Kitchen Operation (MEHKO) FAQs

1. What does the new law do?

The new law establishes a “microenterprise home kitchen operation”, also referred to as MEHKO, as a new type of retail food facility to be operated by a resident in a private home. However, the law requires a city or County to either allow or not allow MEHKOs in their jurisdiction, and until the County or a city takes action, MEHKOs will not be allowed to operate in that city or County. The County has the option to either choose to authorize MEHKOs countywide which would include all cities, not authorize MEHKOs, or authorize only in the unincorporated areas and each city would decide whether to authorize MEHKOs in their city. Wherever MEHKOs are authorized, the County will be the permitting jurisdiction for Food Code purposes. Therefore, the Department of Environmental Health (DEH) will monitor whether local cities authorize MEHKOs to operate within that city.

2. When does the new law go into effect?

The new law will become effective on January 1, 2019. However, the new law gives a city or county “full discretion” to authorize the MEHKOs in their jurisdiction. Until a county or a city authorizes these types of operations, MEHKOs will not be able to be issued a health permit.

3. What is a Microenterprise Home Kitchen Operation or MEHKO?

A MEHKO is a type of food service, like a mini restaurant, that is operated by a resident in a private home where food is stored, handled, and prepared that may be served to customers. Food must be prepared the day of service and can be eaten onsite or be delivered to the customer. Food may also be sold and delivered through an internet website or a phone based mobile app belonging to an Internet Food Service Intermediary. Food products may not be sold to a wholesale or retail facility.

4. What is meant by “private home?”

“Private home” means a dwelling, including an apartment or other leased space, where individuals reside. The MEHKO must be conducted within the primary residence. Second homes, vacation homes, or motor homes DO NOT qualify as a MEHKO.

5. If a person is renting a private residence, can they still operate a MEHKO?

A person must check their lease agreement to see if there are any restrictions to operating a home-based business out of the residence.

6. Are there any meal or sales limitations for MEHKOs?

Yes, food preparation is limited to 30 meals per day or 60 individual meals per week and annual sales cannot exceed \$50,000. Records of all sales must be kept so that compliance with this limitation can be verified. The law also allows for DEH to limit the number of individual meals prepared if the physical space available for food preparation, food storage, and equipment storage is not adequate to support the number of meals being prepared.

7. Who is the “local enforcement agency” for MEHKOs in the San Diego region?

The local enforcement agency for food facilities, including MEHKOs, in the San Diego region is the County of San Diego Department of Environmental Health (DEH).

8. Is a permit required to operate a MEHKO?

Yes, a health permit is required from the County of San Diego Department of Environmental Health (DEH), Food and Housing Division, prior to operating.

9. How does a person who wants to operate a MEHKO obtain a permit from DEH?

If the County or a local city authorizes a MEHKO program, to obtain a permit, a person (the operator) must complete a permit application package that includes a health permit application form and “Written Operational Procedures” form, and pay a permit fee. Once the application and procedures are reviewed and approved by DEH, an initial inspection will be scheduled and conducted at the private residence to verify compliance with state law. Once compliance is verified, the permit will be issued. Once a city or the County has approved a program, an application packet can be picked up at the Department of Environmental Health Office, located at 5500 Overland Ave, Suite 170 San Diego, CA 92123, or online at www.sdcdeh.org.

10. How long does the application process take for a MEHKO?

The application process is determined by the level of detail and completeness of the application package. The standard application process for MEHKOs is up to 20 calendar days if the application package is complete and the level of detail in the operational procedures is included to demonstrate compliance with the law,

11. Does a person need any special training or certification to operate a MEHKO?

The operator of the MEHKO needs to successfully pass an approved and accredited food safety manager course and any individual, other than the operator, who is involved with the preparation, storage, or service of food in a MEHKO must also obtain a food handler card from one of the schools approved by DEH. For a list of approved food safety manager and food handler courses, visit our website at www.sdcountyfoodhandlers.org.

12. Can a MEHKO have employees?

A MEHKO can have one full time equivalent employee who is an individual employed for the MEHKO, this does not include household family members.

13. How often will a MEHKO be inspected?

All MEHKOs will receive one annual routine inspection. The first inspection will occur before a permit is issued to ensure compliance with the law. Additional inspections may be required in response to a complaint, if it is suspected that adulterated or otherwise unsafe food has been produced or served by the MEHKO, or if the MEHKO has violated state law (California Retail Food Code).

14. What areas of a private residence will be permitted and inspected as part of a MEHKO?

The areas of a private residence that will be permitted and inspected as part of a MEHKO includes the kitchen, onsite customer eating area, food storage areas, bathroom (toilet room), janitorial or cleaning areas, and trash storage areas. Any utensils and equipment used in the MEHKO will also be inspected.

15. Are kids and pets allowed to be in a MEHKO?

Yes, the law exempts a MEHKO from certain requirements of the CRFC. MEHKOs are not required to keep children and pets out of the food preparation and food storage areas, but DEH recommends that children and pets be excluded when food is being prepared.

16. Are there any restrictions to the type of food a MEHKO can serve?

A MEHKO can prepare and sell food and beverages that have been approved by the local enforcement agency for same day on-site consumption or delivery **with the exception of** food or beverages that:

- Involve the production, service, or sale of raw milk or raw milk products
- Involve the service or sale of raw oysters
- Involve food processes that require a Hazard Analysis Critical Control Point (HACCP) Plan such as:
 - Smoking food as a method of food preservation

- Curing food
- Using food additives or adding components such as vinegar as a method of food preservation
- Operating a molluscan shellfish life support system display tank used to store and display shellfish that are offered for human consumption
- Using acidification or activity to prevent the growth of Clostridium botulinum
- Packaging potentially hazardous food using a Reduced-Oxygen Packaging method
- Preparing food by another method that is determined by the lead local agency to require a HACCP plan
- Involve the manufacturing of ice cream without a license from California Department of Food and Agriculture
- Contains alcohol without the appropriate liquor license from Alcohol Beverage Control (ABC)

17. Can a MEHKO add in cannabis, CBD, or Kava to the products they sell as part of their operation?

No, current restrictions imposed by the California Department of Public Health (CDPH) and the FDA prohibit a food facility from putting these ingredients into any food products that are offered to the public for consumption.

18. Is commercial grade equipment required in a MEHKO?

No, commercial equipment/appliances are not required as long as the equipment/appliances used in a MEHKO are kept clean, stored in a sanitary manner, and are in good working order.

19. Can a MEHKO use an open-air barbecue or an outdoor wood-burning oven?

Yes, a MEHKO may use an open-air barbecue or an outdoor wood-burning oven as long as the barbecue or wood-burning oven is:

- Operated on the same premises and is within reasonable proximity to the MEHKO
- Does not have access to by the public
- Is not in a location that constitutes a fire hazard
- Meets the requirements of the California Retail Food Code §114143

20. Can an operator of a MEHKO sell or give away food products at temporary community events or at Certified Farmer's Markets?

No, an operator of a MEHKO cannot sell food products at a temporary community event or a Certified Farmer's Market. A MEHKO can only conduct food service directly to the public from the residential home, or sold and delivered through an internet website or a phone based mobile app belonging to an Internet Food Service Intermediary.

21. Are there any special requirements regarding a private residential water well?

Yes, only potable water from a properly constructed on-site well or municipal water system can be used.

22. Can homegrown fruits and vegetables be used in a MEHKO?

Yes, however care should be taken to ensure all fruit and produce is grown and handled using best management practices associated with a community food producer and all produce must be thoroughly washed prior to use.

23. What records are required to be maintained for review by the local enforcement agency?

An operator of a MEHKO must maintain the following documents onsite for review during an inspection:

- Written standard operating procedures that include a menu and hours of operation
- A valid permit issued by DEH, or a legible copy of the valid permit, must be displayed onsite at all times when the MEHKO is in operation
- A copy of a valid driver's license of the person delivering food on behalf of the MEHKO
- A copy of the most recent DEH inspection report
- Records of all receipts from the sales of food

24. Can an operator of a MEHKO donate any leftover food?

An operator of a MEHKO may donate food to a food bank or to any other nonprofit charitable organization as long as the food has been handled in compliance with food safety requirements. For more information on food donations, contact the DEH-FHD information specialist at (858) 505-6900, or one of the two San Diego Based Food Banks, Feeding San Diego at (858) 452-3663, or the San Diego Food Bank at (858) 527-1419.

25. If an operator moves to a new residence, do they need to go through the application process again?

Yes, DEH permits are non-transferable. If an operator moves to a new residence, they must go through the application process again.

26. Why isn't a letter grade posted at a MEHKO like it is at a permanent food facility or a mobile food facility?

The law exempts a MEHKO from any local grading system. However, just like permanent food facilities and mobile food facilities, inspection report data and violation information relating to any inspections conducted at a permitted MEHKO can be found at www.SDFoodInfo.org.

27. How does a customer determine if a MEHKO has an approved permit?

A MEHKO is required to display their permit, or a legible copy, during hours of operation. Customers can also visit www.SDFoodInfo.org to determine if a MEHKO has a valid permit.

28. If there are complaints about odors, traffic, parking, and/or excessive noise, what agency should be notified?

Any complaints involving nuisance concerns can be reported directly to the local city's Code Enforcement Department, or for MEHKOs in the unincorporated areas, to the County of San Diego Department of Planning & Development Services Code Enforcement Program.

For additional information, please visit
the Department of Environmental Health's webpage at: <http://www.sdcdeh.org>

**If you have any questions that have not been answered in these FAQ's,
or if additional clarification is needed, please contact the DEH-FHD Information Specialist
at (858) 505-6900 or by email at FHDUTYEH@sdcounty.ca.gov.**