



County of San Diego

DEPARTMENT OF ENVIRONMENTAL HEALTH AND QUALITY

FOOD AND HOUSING DIVISION

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Microenterprise Home Kitchen Operation (MEHKO) FAQs

General Info

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. The law requires a County to either allow or not allow MEHKOs in their jurisdiction, and the San Diego County Board of Supervisors has authorized a two-year temporary pilot program allowing MEHKOs to operate countywide. The Department of Environmental Health and Quality, Food and Housing Division (DEHQ-FHD) is the local enforcement agency responsible for issuing operating permits to MEHKOs pursuant to California Retail Food Code (CRFC) requirements and ensuring operational compliance.

2. When does the new law go into effect?

The new law was effective January 1, 2019. However, the new law gives the county “full discretion” to authorize the MEHKOs in their jurisdiction. With the recent authorization of MEHKOs within San Diego County, MEHKO operators will be able to submit their application packets to DEHQ-FHD starting on February 25, 2022.

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 by the operator. Food may also be sold through an internet website or a phone-based mobile app belonging to an Internet Food Service Intermediary, but delivery must be by the MEHKOs operator or an employee of the MEHKOs facility. Food products may not be sold to a wholesale or retail facility. Third party delivery apps such as UberEats, Postmates, or GrubHub, etc., cannot be used by a MEHKO unless as provided for in CRFC Section 114367.5.

A MEHKO does not include either of the following:

- A catering operation, as defined in CRFC Section 113739.1.
- A cottage food operation, as defined in CRFC Section 113758.

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

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

5. 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. A MEHKO owner cannot have more than one primary residence, and second homes, vacation homes, or motor homes DO NOT qualify as a MEHKO.

6. If a person is renting a private residence/apartment or lives in a Homeowner’s Association (HOA), 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/apartment. If you have an HOA, it is advised that you make sure that a MEHKO is allowed by your HOA before applying for a MEHKO health permit.

7. What is the difference between a MEHKO and a Cottage Food Operation (CFO)?

A CFO is restricted to preparing and selling only prepackaged, properly labeled, non-potentially hazardous foods that have been approved by the California Department of Public Health (CDPH) (<https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/FDB/FoodSafetyProgram/CottageFood/ApprovedCottageFoodsList.pdf>), which may be sold directly or indirectly to the consumer. CFOs may not allow on-site food consumption. A MEHKO is able to prepare and serve potentially hazardous foods and are able to provide onsite dining, pick-up, or delivery options to their customers.

8. Can a person operate both a CFO and a MEHKO in their residence?

No, the law does not allow a CFO and a MEHKO in the same residence. The definition of a MEHKO does not include a CFO as provided for in CRFC Section 113825(b).

9. Can a person operate multiple CFOs or multiple MEHKOs in their residence?

No. A cottage food operator is an individual who operates a cottage food operation in his or her private home and is the owner (CRFC Section 113758). A MEHKO is a food facility that is operated by a resident in a private home where food is stored, handled and prepared (CRFC Section 113825). Both a CFO and MEHKO have limitations for the gross dollar amount allowed, number of employees, type of operation, allowed foods, etc. in a single residence. The law does not allow limits to be aggregated by multiple operations in the same residence.

10. Are multiple people living in the same residence allowed to each operate a CFO or MEHKO in that residence?

No. See Questions 8 and 9 above. There can only be one home kitchen operation (CFO or MEHKO) per residence.

11. What constitutes a meal?

While a meal is not defined in the California Retail Food Code, it should be sufficient in quantity to constitute a main course. This guideline is consistent with definition of a meal established by Alcohol Beverage Control (ABC) as part of their permitting process. Baked goods, condiments, sauces, or beverages are not considered a full meal.

Application Process

12. Is a permit required to operate a MEHKO?

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

13. How does a person who wants to operate a MEHKO obtain a permit from DEHQ?

In order to obtain a health permit, a person (the operator) must complete a permit application package that includes a health permit application and "Standard Operating Procedures" form along with the proposed menu, submit their Food Safety Manager Certificate, and pay a permit fee. Once the application and procedures are reviewed and approved by DEHQ, 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. Application packets can be picked up at the Department of Environmental Health and Quality Office, located at 5500 Overland Ave, Suite 170, San Diego, CA, 92123, or online at www.sdcdehq.org.

14. 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. If the application must be sent back for revisions an additional 10 calendar days for review may be added.

15. Is approval from the FHD Plan Check Unit required prior to obtaining a MEHKO permit?

Plan check approval is not required prior to obtaining a MEHKO permit. However, if any remodel work is to be done at the residence to support the MEHKO, operators must contact their local Building Department to determine what, if any, approvals will be needed prior to starting construction.

16. What fees are associated with operating a MEHKO?

In order to operate a MEHKO, the initial health permit fee will need to be paid at the time of application, and then the operator will be responsible for paying their annual permit fee in each subsequent year. Additional fees will be applied for any justified complaint response as well as for reinspections that are needed to ensure compliance with the CRFC. For a list of current fees, please refer to the current fee schedule found at www.sdcdehq.org.

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

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

18. 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.

Operational Requirements

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

The operator of the MEHKO must successfully pass an approved and accredited food safety manager course prior to submitting an application, 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 DEHQ within 10 days of the start of their employment. Proof of food safety certification and foodhandler training must be available on site. For a list of approved food safety manager and food handler courses, visit our website at www.sdcountyfoodhandlers.org.

20. Can a MEHKO have employees?

A MEHKO can have one full-time equivalent employee who is an individual employed by the MEHKO. This does not include household family members.

21. Does all of the food I use for my MEHKO need to be stored within my home?

MEHKOs are able to store food items in areas that are not part of the internal habitable space (including garages, outdoor sheds, workshops etc.) if the food is stored inside a refrigerator or freezer with a properly closing door/lid.

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

Yes, the law exempts a MEHKO from certain requirements of the CRFC. However, MEHKO facilities are required to keep all children and animals outside of the kitchen and dining areas during food service and preparation.

23. 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 gross annual sales cannot exceed \$50,000 as adjusted annually according to the California Consumer Price Index. Records of all sales must be kept so that compliance with this limitation can be verified. The law also allows for DEHQ 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.

24. 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 ABC

25. Can I keep leftovers to serve the next day, or prepare foods, including condiments, sauces, or beverages in advance?

Per the CRFC requirements, all food and beverages cannot be served the next day as part of the MEHKO operation. MEHKOs must prepare and serve all food and beverages on the same day and any leftovers must be properly disposed of at the end of the day.

26. Can I package food or beverages at my MEHKO?

Yes, a MEHKO may portion food into containers for same-day pick up or delivery service as long as it remains part of a meal. However, MEHKOs cannot use reduced-oxygen packaging (such as vacuum packing) or seal their foods in cans, bottles, or jars.

27. Can alcoholic beverages be sold from a MEHKO?

MEHKOs must have a valid license from the California Department of Alcoholic Beverage Control (ABC) in order to sell, serve, provide, or allow alcohol to be consumed on-site at the MEHKO. This includes allowing patrons to bring their own alcohol. Contact the ABC for more information: www.abc.ca.gov.

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

Yes, however care should be taken to ensure all 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.

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

Current restrictions imposed by the California Department of Public Health (CDPH) and the FDA prohibit a food facility from adding these ingredients into any food products that are offered to the public for consumption.

30. Can a MEHKO operate as a caterer?

Per the CRFC requirements, a MEHKO is prohibited from operating as a caterer or advertising any catering options as part of their permitted operation. Only permanent food facilities approved for operation, such as a restaurant, banquet facility, or other approved commercial kitchen, or operators who have obtained a Catering permit at an approved commercial kitchen, may operate as a caterer.

31. Can a MEHKO support a mobile food facility or act as a commissary for a food truck or temporary food facility ?

Per the CRFC requirements, MEHKOs may not sell to, operate as, or act as a commissary for a mobile food facility, such as a food truck, food cart, or a temporary food facility.

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

An operator of a MEHKO cannot sell food products at a temporary event or a Certified Farmer's Market. A MEHKO can only conduct food service directly to the public from the residential home or sold through an internet website or a phone based mobile app belonging to an Internet Food Service Intermediary. Internet Food Service Intermediaries must be registered with the California Department of Public Health.

33. 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 DEHQ-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.

34. Where can I advertise my MEHKO business?

A MEHKO may advertise their business through an internet food service intermediary or other online platform such as social media, as well as print media. The MEHKO must clearly identify San Diego County Department of Environmental Health and Quality, Food and Housing Division as the permit issuer, the permit number, and the following statement of "Made in a Home Kitchen" in a conspicuous font and location within the advertisement. A MEHKO is prohibited from posting signage to advertise the business in front of the residence.

Inspection Process

35. 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.

36. Can a MEHKO be inspected more frequently?

State law prohibits conducting routine inspections of MEHKOs more than once a year. 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 CRFC requirements.

37. 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 and equipment 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.

38. 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 DEHQ, 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 DEHQ inspection report
- Records of all annual receipts from the sales of food

39. 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. Their permit to operate must be retained on site, and on display, during hours of operation. 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.

Equipment Requirements

40. 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.

41. 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 CRFC Section 114143

42. Are restrooms required to be available for MEHKO customers?

Yes, clean toilet facilities, in good condition, and properly stocked with warm water, dispensable soap, and single-use paper towels shall be available for the MEHKO operator, food handlers, and any employees at all times. If the MEHKO allows customers to consume food or beverages on site, the MEHKO must provide a restroom for those customers to use.

Zoning

43. 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.

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

An approved source of potable water is required for all home kitchen operations. If the water will be provided by a regulated water district or small water system where water quality analysis is performed on a routine basis to ensure the water supply meets minimum bacterial and chemical standards, no further action is necessary. If the water will be provided by a private well, initial and annual testing will be required. For initial applications, a full panel of testing (bacteria, metals, nitrates) results will need to be submitted as part of the MEHKO application. At the time of an annual permit renewal, only bacteriological testing results will need to be submitted.

If testing is needed, requirements and laboratory options can be found at:

<https://www.sandiegocounty.gov/content/dam/sdc/deh/fhd/food/pdf/homekitchenpotablewater.pdf>

A list of approved water sample providers can be found at:

<https://www.sandiegocounty.gov/content/dam/sdc/deh/lwqd/Water%20Sampling%20Provider%20List.pdf>

45. Are there special requirements for disposing of fats, oils or grease that are produced in a MEHKO?

Fats, oils and grease (sometimes known as FOG) are produced when cooking foods that contain fat, such as meat or dairy products, or are prepared using fat (for baking, sautéing, marinating, frying, etc.). They can cause blockages of residential and community plumbing and sewers and can result in sewage backups and overflows both inside and outside of residences. Please do not dispose of fats, oils and grease down the drain. For more information about how to properly dispose of fats, oils and grease, please contact your sewer agency or local city code enforcement for any additional restrictions on the disposal of fats, oils or grease.

46. Are grease traps required for MEHKOs?

State law (California Retail Food Code) prohibits requiring MEHKOs to install grease traps. Please see Question 45 above for proper disposal of fats, oils and grease.

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

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