

DEPARTMENT OF RESOURCE MANAGEMENT



MICROENTERPRISE HOME KITCHEN OPERATIONS (MEHKO) FREQUENTLY ASKED QUESTIONS (FAQs)

The California Health and Safety Code (i.e. California Retail Food Code) was recently amended to establish a “microenterprise home kitchen operation” as a new type of retail food facility. A MEHKO allows the enforcement agency to issue a permit to an individual to operate a restaurant in their private home.

Permitting

1. Q: What is a Microenterprise Home Kitchen Operation?

A: It is a type of food service operated by a resident from a private home where food is prepared, cooked and served to consumers on the same day. Food is to be consumed onsite, picked up or be delivered to the consumer within a safe time period (i.e. within 30 minutes without hot holding equipment).

2. Q: When does the MEHKO law go into effect?

A: While the law became effective January 1, 2019, the Solano County ordinance was signed March 23, 2020.

3. Q: Do I need a permit to operate a MEHKO?

A: Yes, a permit shall be obtained from the local environmental health jurisdiction prior to operating a MEHKO.

4. Q: How do I obtain a permit?

A: To obtain a permit, submit a permit application, Standard Operational Procedures (SOP) and payment to Solano County division of Environmental Health Services. The submitted packet will be reviewed and an inspection of the MEHKO will be scheduled. If approved, a permit will be issued. Fees will vary depending on the fee schedule, see our website for the current fee schedule: http://solanocounty.com/depts/rm/environmental_health/default.asp.

5. Q: How long does the application process take for a MEHKO?

A: The application process is determined by the level of detail and completeness of the application package. The law allows 20 calendar days for processing the application if complete and the level of detail in the operational procedures is included to demonstrate compliance with the law.

6. Q: I have a MEHKO permit for my current residence and will be moving. Is my permit still valid for my new residence?

A: No, permits are not transferable to other people or other location. Permits that are issued by the environmental health jurisdiction are only valid for the person, location and type of food service initially approved. In the event that the food permittee moves, changes their menu or type of food service, a new permit application will need to be submitted for approval by the local environmental health jurisdiction.

7. **Q: Can two MEHKO permits be issued for two residents that would like to operate a MEHKO out of the same residence?**
A: Only one MEHKO may operate from a private residence. Permits are specific for the person, location and type of food service to be offered.
8. **Q: What information is required in an MEHKO's standard operating procedures?**
A: The MEHKO's standard operating procedures shall include:
- All food types or products (e.g. menu items) that will be handled.
 - The proposed procedures and methods of food preparation and handling.
 - Procedures, methods, and schedules for cleaning utensils, equipment, and for the disposal of refuse.
 - How food will be maintained at the required holding temperatures, pending pickup by the consumer and during delivery.
 - Proposed days and times when the home kitchen may potentially be utilized as a MEHKO.
 - Will the food be served on site, delivered, picked up or all of the above.
9. **Q: Can a permitted Cottage Food Operator (CFO) also operate as a MEHKO?**
A: No, a CFO is restricted to nonpotentially hazardous foods and cannot serve foods from a private home.
10. **Q: What is the difference between a Cottage Food Operation (CFO) and a Microenterprise Home Kitchen Operation (MEHKO)?**
A: A CFO is restricted to preparing and selling only non-potentially hazardous foods that have been approved by the California Department of Public Health which may be sold directly or indirectly to the consumer where as a MEHKO allows for the limited preparation of potentially hazardous foods for onsite consumption or delivery when permitted by the local environmental health jurisdiction. The approved product list for a CFO can be found here:
<https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/FDB/FoodSafetyProgram/CottageFood/Approved%20Cottage%20Food%20List%20%20for%20Web%20July%201%202018.pdf>
11. **Q: Who is the "local enforcement agency" for MEHKOs?**
A: The local enforcement agency for food facilities, including MEHKOs, in Solano County is the Solano County Division of Environmental Health Services.
12. **Q: How often will a MEHKO be inspected by the local environmental health jurisdiction?**
A: After the initial permitting inspection, a MEHKO may be subject to one routine inspection per fiscal year. Additional inspections may be conducted in response to a consumer complaint, or reason to suspect that adulterated or otherwise unsafe food has been produced or served.
13. **Q: What areas of the MEHKO will be permitted and inspected?**
A: The areas of a MEHKO that will be permitted and inspected include the home kitchen, onsite consumer eating area, food storage, utensils and equipment, toilet room, cleaning facilities, and refuse storage area (this includes garbage, recycling and composting areas).
14. **Q: What happens if a customer complains after eating at or purchasing food and beverages from a MEHKO?**
A: The Environmental Health Specialist may conduct an onsite inspection to investigate the alleged complaint. Fees may be assessed by the local environmental health jurisdiction for the investigation.
15. **Q: What information is available to assist a MEHKO to operate in a safe and healthy way?**

A: The local environmental health jurisdiction is a great resource to obtain information
http://solanocounty.com/depts/rm/environmental_health/default.asp

16. Q: Is a letter grade/placard required to be posted at a MEHKO like it is at a permanent food facility or a mobile food facility?

A: The law exempts a MEHKO from any local grading system. Inspection report data and violation information relating to any inspections conducted at a permitted MEHKO can be found at:
http://solanocounty.com/depts/rm/food_facility/default.asp

17. Q: How would the public know if a MEHKO has an approved permit?

A: A MEHKO is required to display their permit, or a legible copy, during hours of operation. Customers can also call the Solano County Division of Environmental Health Services at 707-784-6765 to determine if a MEHKO has a valid permit.

Operating MEHKO

1. Q: Who is considered a resident?

A: A resident is an individual who lives in a private home (such as a single home, apartment, duplex, or condominium) when not elsewhere for work or temporary basis (i.e. vacation).

2. Q: Can a MEHKO operate as a Caterer?

A: No, a MEHKO is prohibited from operating a Catering Operation. Only permanent food facilities approved for food preparation (such as a restaurant, banquet facility or other approved commercial kitchen) can conduct catering operations.

3. Q: Who can I sell my food to?

A: Food must be sold directly to a consumer for onsite consumption or delivery and not to a wholesaler or retailer.

4. Q: Can a MEHKO sell or give away food products at a temporary event or certified farmer's markets?

A: No, a MEHKO cannot sell food products at a temporary event or certified farmer's market. A MEHKO is limited to selling food directly to a consumer at their residence for onsite consumption or delivery.

5. Q: Can a MEHKO sell to any wholesaler or retailer?

A: No, a MEHKO can only sell food directly to consumers, through an internet Web site, or a mobile application of an Internet food service intermediary (see FAQ further in the document for the definition of an internet food service intermediary).

6. Q: Can a MEHKO advertise in front of the residence?

A: No, the MEHKO is prohibited from posting signage or other outdoor displays advertising the MEHKO from a residence.

7. Q: Can a MEHKO advertise online?

A: Yes, a MEHKO can utilize an internet food service intermediary or other online platform that lists or promotes the MEHKO on its internet web site or mobile application.

8. Q: Can a MEHKO advertise using print media?

A: Yes, a MEHKO can advertise in a newspaper or other print media. The MEHKO must clearly identify the name of the local enforcement agency that issued the permit, the permit number along with the

following statement “Made in a Home Kitchen” in a conspicuous font and location within the advertisement.

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

A: 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 Code Enforcement Program.

10. Q: Can a MEHKO utilize a third party online delivery service, such as Uber Eats or DoorDash to deliver food?

A: No a MEHKO is not allowed to utilize any third party delivery service for food deliveries.

Food Service at MEHKO

1. Q: What type of food service is the MEHKO permitted to do?

A: A MEHKO can prepare and sell foods that have been approved by the local environmental health jurisdiction for same day onsite consumption or delivery.

2. Q: What are the menu limitations on a MEHKO?

A: An MEHKO business may not prepare 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 Plan (see follow-up question below for more information).

3. Q: What types of food processing require a Hazard Analysis Critical Control Point (HACCP) plan?

A: The following specialized food processes require a HACCP plan:

- 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 (ROP) method.
- Preparing food by another method that is determined by the lead local agency to require a HACCP plan.

4. Q: Can a MEHKO make and sell ice cream or other milk products?

A: No. The California Department of Food and Agriculture requires a license and specific requirements for the manufacturing of ice cream or dairy based foods. A residential home will not be able to meet those requirements. This does not prohibit a MEHKO from utilizing dairy products such as pasteurized milk purchased from an approved source as an ingredient in a food product.

5. Q: Can homegrown fruits and vegetables be used in a MEHKO?

A: 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. This garden must also be registered with the local enforcement agency, the garden registration application can be found here:

https://admin.solanocounty.com:4433/depts/rm/environmental_health/consumer/food_program/permanent_food_facilities_.asp

6. Q: Can a MEHKO add cannabis, CBD, or Kava to a food product as part of their operation?

A: No, only approved food additives may be used as an ingredient in food preparation. At this time, cannabis, CBD and Kava have not been approved as a food additive by the Food and Drug Administration.

7. Q: Can a MEHKO donate food?

A: A MEHKO may donate food to a food bank or to any other nonprofit charitable organization as long as food has been handled in compliance with the California Retail Food Code (<https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/FDB/FoodSafetyProgram/MEHKO/CALIFORNIA%20RETAIL%20FOOD%20CODE%202019.pdf>) and is donated the same day it is prepared.

8. Q: Can I keep leftovers to serve the next day?

A: Leftovers can't be served the next day as part of the MEHKO operation.

9. Q: Can a MEHKO package food or beverages?

A: Yes, a MEHKO may portion food into containers for same-day pick up or delivery service.

10. Q: Are commercial equipment and/or appliances required in a MEHKO?

A: No, commercial equipment and/or appliances are not required as long as the equipment/appliances are maintained clean and are in good working order.

11. Q: Are there any special requirements regarding a private residential water well?

A: Yes, only potable water from a properly constructed and maintained onsite well or municipal water system can be used. Bacteriological test (quarterly), Nitrates (annually), Nitrites (every 3 years), are required by the local enforcement agency.

12. Q: Can a MEHKO operate an open-air barbecue or an outdoor wood-burning oven?

A: Yes, a MEHKO may operate an open-air barbecue or an outdoor wood-burning oven as long as the barbecue or oven is operated on the same premises as a MEHKO, is separated from public access, and meets the requirements of California Retail Food Code Section 114143. (<https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/FDB/FoodSafetyProgram/MEHKO/CALIFORNIA%20RETAIL%20FOOD%20CODE%202019.pdf>)

13. Q: Are restrooms required to be available for MEHKO customers?

A: Yes, clean toilet facilities, in good condition, shall be available for employees at all times and for consumers when there is onsite consumption.

14. Q: Can alcoholic beverages be served or sold from a MEHKO?

A: Contact Department of Alcohol Beverage at www.abc.ca.gov

Employees/Record Keeping

1. Q: What is the definition of a food employee?

A: A food employee is an employee who works with food, food equipment or utensils, or food contact surfaces. For more information about California Labor Laws visit: <https://www.dir.ca.gov/DLSE/dlse.html>

2. Q: Are family or household members considered food employees?

A: No, family members and household members are not considered food employees of a MEHKO.

3. Q: What are the limitations for a MEHKO to hire food employees?

A: A MEHKO may have no more than one (1) full time equivalent food employee.

4. Q: What certificates are required to operate a MEHKO?

A: The operator of the MEHKO shall successfully pass an approved and accredited food safety examination by the American National Standards Institute as meeting the requirements of the Conference for Food Protection's Standards for Accreditation of Food Protection Manager Certification Programs and any individual, other than the operator, who is involved with the preparation, storage, or service of food in a MEHKO shall obtain an approved food handler card. A food employee that has a valid food safety manager certificate is not required to obtain a food handler card.

5. Q: What are the sales limitations of a MEHKO?

A: The MEHKO shall have no more than fifty thousand (\$50,000) in verifiable (ex. invoices) gross annual sales. Records of all sales must be kept so that compliance with this limitation can be verified.

6. Q: What records are required to be maintained for review by the local environmental health jurisdiction?

A: The MEHKO shall maintain the following documents onsite for review during an inspection:

- Written standard operating procedures that include a menu, and hours of operation.
- The permit to operate, or an accurate copy, shall be displayed onsite at all times when the MEHKO is in operation.
- Valid certificate of the food safety manager certification for the operator and a valid food handler card(s) or food safety manager certification for any food employees.
- A copy of the valid driver's license of a person delivering food on behalf of the MEHKO.
- A copy of the most recent inspection report.
- Copies of the MEHKO financial records as it relates to the gross annual sales.

7. Q: What if I want to change my menu after I have obtained a permit as an MEHKO?

A: If the proposed menu change requires new equipment or additional food storage capacity, an updated SOP may be required by the local enforcement agency. Contact the local enforcement agency to determine what may be required before changing the menu.

**If you have any questions that have not been answered in these FAQ's,
or if additional clarification is needed, please visit your local enforcement agency at (707)784-
6765 or visit our website at www.solanocounty.com**