

ANALYSIS

This ordinance amends Title 8 – Consumer Protection, Wage and Business Regulations and Title 11 – Health and Safety of the Los Angeles County Code to regulate Microenterprise Home Kitchen Operations and Cottage Food Operations. The ordinance:

- Authorizes the permitting of Microenterprise Home Kitchen Operations in the incorporated and unincorporated areas of the County except within the cities of Long Beach, Pasadena, and Vernon, pursuant to California Health and Safety Code section 114367;
- Authorizes the Department of Public Health to administer the Microenterprise Home Kitchen Operations Ordinance;
- Defines a Microenterprise Home Kitchen Operation as a home-based food business that allows approved individuals to prepare and sell meals onsite and directly to a consumer as further described in California Health and Safety Code section 113825;
- Provides for an application and permitting process, including an initial home inspection, to ensure the home kitchen supports the proposed food operation;
- Allows for determination of a permitted area for the Microenterprise Home Kitchen Operation which may include the home kitchen, onsite consumer eating areas, food and other storage, equipment, toilet rooms, janitor and cleaning facilities, and refuse areas as authorized by California Health and Safety Code section 114367.2 and the Department of Public Health;

- Establishes an initial application fee and an annual permit fee required to operate a Microenterprise Home Kitchen Operation;
- Allows for Microenterprise Home Kitchen Operations to serve as a commissary for up to two (2) Compact Mobile Food Operations as long as they are owned by the same permitholder;
- If approved to serve as a commissary, the number of meals that a Microenterprise Home Kitchen Operation can prepare in a week and the gross sales per year limit is expanded;
- Adds requirements for a Cottage Food Operation to align with the California Health and Safety Code and clarifies the potable water requirements for these operations; and
- Requires the Department of Public Health to provide notice to cities of any approved Microenterprise Home Kitchen Operations in their jurisdiction along with any permit revocation or suspensions; and update its website within 15 days of issuance of a permit.

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VM:rg

Requested: 12/6/2023
Revised: 5/8/2024

ORDINANCE NO. _____

An ordinance amending Title 8 – Consumer Protection, Business and Wage Regulations of the Los Angeles County Code and Title 11 – Health and Safety of the Los Angeles County Code by adding Chapter 11.17-Microenterprise Home Kitchen Operations to allow for a Microenterprise Home Kitchen Operations Program in both the unincorporated and incorporated areas of the County, except within the cities of Long Beach, Pasadena and Vernon. The ordinance establishes a new public health permit and service fees for Microenterprise Home Kitchen Operations along with updating operational requirements for Cottage Food Operations that align with California Health and Safety Code, Division 104, Part 7.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 8.04.295 is hereby added to read as follows:

8.04.295 Microenterprise Home Kitchen Operation.

"Microenterprise Home Kitchen Operation" or "MEHKO" means a food facility as defined in California Health and Safety Code section 113825 that is required to comply with California Health and Safety Code Division 104, Part 7, Chapter 11.6, Microenterprise Home Kitchen Operation.

SECTION 2. Section 8.04.720 is hereby amended to read as follows:

8.04.720 Fee Schedule.

Business Classification	Permit Fee
Animal food market	\$201.00
...	
<u>Microenterprise Home Kitchen Operation</u>	<u>347.00</u>
...	

SECTION 3. Section 8.04.728 is hereby amended to read as follows:

8.04.728 Service Charges—Basis—Payment.

A. Whenever another government jurisdiction requires a person to secure an inspection, evaluation, report, or approval by the County Health Officer, necessitating the County Health Officer to provide a service, such person shall pay a fee to offset the costs incurred by the County Health Officer as set forth in this section.

...

F. The following is the Schedule of Service Charges for services provided by the County Health Officer. Failure to pay said fees constitutes a violation of this section and may be prosecuted as such.

Backflow prevention assembly (each):	\$37.00
...	
<u>Microenterprise Home Kitchen Operation Initial Application</u>	<u>597.00</u>
...	

SECTION 4. Section 8.04.783 is hereby added to read as follows:

8.04.783 Additional Requirements for Cottage Food Operations.

A. A Cottage Food Operation whose potable water supply comes from a private well shall submit with their permit application sample results verifying the water supply meets at minimum the definition of a Transient Non-Community Water System standard, as defined in California Health and Safety Code section 116275(o) and standards set forth in the California Code of Regulations, Title 17 and 22. Sample results shall include nitrate, nitrite, and bacteriological water quality.

B. A Cottage Food Operation whose permit or registration is initially approved shall complete water quality testing and also maintain the test results, which shall be made available for review by the County Health Officer during a routine inspection or complaint investigation. Water quality testing frequency shall be in accordance with Transient Non-Community Water System requirements and include:

1. Quarterly bacteriological testing.

2. Annual nitrate testing, unless the results are greater than or equal to fifty (50) percent of the Maximum Contaminant Level ("MCL"), in which case testing shall be completed quarterly for one (1) year. If after one (1) year, no additional results are greater than or equal to fifty (50) percent of the MCL, the testing may return to annually.

3. Nitrite testing every three (3) years, unless the results are greater than or equal to fifty (50) percent of the MCL, in which case testing shall be completed quarterly for one (1) year. If after one (1) year, no additional results are greater than or equal to fifty (50) percent of the MCL, the testing may return to every three (3) years.

C. Transactions at up to two (2) Compact Mobile Food Operations (CMFO) operated by a Cottage Food Operation shall not count towards the annual gross sales restrictions applicable to Cottage Food Operations as set forth in California Health and Safety Code section 113758.

SECTION 5. Chapter 11.17 is hereby added to read as follows:

CHAPTER 11.17 Microenterprise Home Kitchen Operations.

11.17.010 Short Title.

11.17.020 Declaration of Purpose and Findings.

- 11.17.030 Definitions.**
- 11.17.040 Scope.**
- 11.17.050 MEHKO Facility Permit Requirements.**
- 11.17.060 Required Compliance.**
- 11.17.070 Food Preparation and Storage.**
- 11.17.080 Expanded Food Service.**
- 11.17.090 Safety.**
- 11.17.100 Signage Prohibited.**
- 11.17.110 Inspections.**
- 11.17.120 Potable Water.**
- 11.17.130 Public Notification.**
- 11.17.140 Notice of Inspection Results.**
- 11.18.150 Exemption.**
- 11.17.160 Implementation.**
- 11.17.170 Severability.**
- 11.17.180 Effective Date.**
- 11.17.010 Short Title.**

This ordinance codified in Title 11 of this County Code will be known as, and may be cited as, the "Microenterprise Home Kitchen Operations Ordinance."

11.17.020 Declaration of Findings and Purpose.

A. The Board of Supervisors finds that in Los Angeles County, small businesses comprise a large percentage of the local workforce in Los Angeles County, many of which are minority-owned.

B. With the creation of the Microenterprise Home Kitchen Operations Program, the County will be able to continue the advancement of economic mobility for local small businesses by allowing these microentrepreneurs to be a part of the formal economy.

C. The Microenterprise Home Kitchen Operations Program will allow for small-scale, direct food sales from home-based kitchens and provide a safe and equitable pathway to legal food vending, in accordance with California Health and Safety Code, Division 104, Part 7, Chapter 11.6, Microenterprise Home Kitchen Operations, and pursuant to the Board of Supervisors' police powers as set forth under Article XI, Section 7 of the California Constitution.

D. It is the intention of the County to authorize and adopt a Microenterprise Home Kitchen Operations Program Countywide as authorized by California Health and Safety Code section 114367.

11.17.030 Definitions.

The following words and phrases shall apply to this Chapter:

A. "Compact Mobile Food Operation" or "CMFO" means a food facility as defined in California Health and Safety Code section 113831(c).

B. "County Health Officer" means the Director of the Department of Public Health of the County of Los Angeles, or their duly authorized representative.

C. "Department" means the Los Angeles County Department of Public Health.

D. "Food Handler" means an individual who is involved in the preparation, storage, or service of food in a food facility, as defined in California Health and Safety Code section 113790.

E. "Microenterprise Home Kitchen Operation" or "MEHKO" means a food facility as defined in California Health and Safety Code section 113825.

F. "MEHKO Operator" means the resident of the private home where the MEHKO will be operating, who is the permit holder for the MEHKO and, who is responsible for the operation.

G. "Permitted Area" means the home kitchen described in the application for MEHKO, the on-site consumer eating area, food storage area, utensils and equipment, toilet room, janitorial or cleaning facilities, and refuse and storage areas as provided by Health and Safety Code section 114367.2, and including any attached rooms within the home, as designated by the permit holder, that have spaces, such as closets, that are used exclusively for food, utensil, and equipment storage for the MEHKO, as authorized by the County Health Officer.

H. "Potable Water" means water that complies with the standards for transient noncommunity water systems pursuant to the California Safe Drinking Water Act, commencing with California Health and Safety Code section 116270 et. seq. to the extent permitted by federal law.

I. "Resident of a Private Home" means any individual who resides in a private home when not elsewhere for labor or other special and temporary purposes.

11.17.040 Scope.

A. The provisions of this chapter shall apply to Microenterprise Home Kitchen Operations as defined in California Health and Safety Code section 113825 et. seq., within the unincorporated and incorporated areas of Los Angeles County, except within the cities of Long Beach, Pasadena, and Vernon, and to the extent permitted under California Health and Safety Code section 114367.

B. As set forth in California Health and Safety Code section 114367.4, a city or county cannot prohibit the operation of, require a permit to operate, require a rezone of the property for, or levy any fees on, or impose any other restriction on, a Microenterprise Home Kitchen Operation in any residential dwelling for zoning purposes. Operating a MEHKO does not constitute a change of occupancy for purposes of the Health and Safety Code, Division 13, Part 1.5, section 17910 et. seq. or for purposes of local building and fire codes.

11.17.050 MEHKO Facility Permit Requirements.

A. Any individual desiring to obtain a public health permit to operate a MEHKO shall file an application with the Department and pay the nonrefundable application fee as set forth in Section 8.04.728 F.

B. Upon receipt of both an application for a public health permit and the required non-refundable fee, the Department shall review the application.

C. Application Requirements.

1. The application at a minimum shall include the requirements set forth in California Health and Safety Code section 114367.2(c), including but not limited to a listing of the proposed equipment and standard operating procedures the MEHKO

Operator intends to use and a list of any Food Handlers, as set forth in subsection 3, below.

2. The MEHKO Operator shall successfully complete and pass an approved and accredited Food Safety Certification Examination, in compliance with California Health and Safety Code sections 113947.1 and 113947.2 and include proof of certification with the application.

3. If a MEHKO Operator plans to have Food Handlers as part of their operation, the MEHKO Operator must include proof of Food Handler food certification for every individual with the submission of the permit application. If a Food Handler is employed after the initial inspection is conducted, the MEHKO Operator will have thirty (30) days from the date of hire to provide a copy of the employee's food handler card to the Department. The MEHKO Operator shall have no more than one full-time equivalent Food Handler, not including a household or family member, in accordance with California Health and Safety Code section 113825.

D. Upon completion and approval of the initial application review, the MEHKO shall be subject to an initial inspection to be completed by the Department to ensure minimum compliance with this Chapter and as provided by California Health and Safety Code section 114367.2(d)(1).

E. Upon verification by the Department that all minimum requirements have been met, a public health permit shall be issued upon payment of a non-refundable public health permit fee as specified in Section 8.04.720 of this code.

F. A MEHKO Operator is required to notify the Department and request an evaluation within twenty (20) days of any substantive changes made to the menu or equipment that affect the originally proposed operational procedures following the

Department's initial approval. These changes may include, but are not limited to, the addition of potentially hazardous foods to the menu, as defined in California Health and Safety Code section 113871, installation of new food preparation equipment, or the expansion to include support of up to two (2) CMFOs. The MEHKO Operator shall pay an evaluation fee based on the hourly rate established in Section 8.04.728 of this Code. Upon notification and payment of the fee, the MEHKO Operator shall be subject to a site evaluation to be completed by the Department within twenty (20) days to evaluate if the menu or equipment change can be supported within the previously permitted kitchen.

G. MEHKO permits may be modified, suspended, or revoked as provided in the California Health and Safety Code, Division 104, Part 7, Chapter 13.

H. No persons shall operate a MEHKO without a valid public health permit issued by the County Health Officer.

I. Only one MEHKO may operate per residence. A Cottage Food Operation shall not be permitted from the same residence.

11.17.060 Required Compliance.

Unless otherwise specified in this Chapter, a MEHKO shall comply with the requirements of California Health and Safety Code, Division 104, Part 7. In addition, all permitted MEHKOs are subject to exemptions as set forth in California Health and Safety Code, Division 104, Part 7, Chapter 11.6.

11.17.070 Food Preparation and Storage.

A. MEHKO food preparation, packaging, and handling shall be kept separate from other domestic activities, including but not limited to, family meal preparation,

guest entertaining, or dishwashing.

B. All food storage for the MEHKO within the permitted area shall comply with California Health and Safety Code, Division 104, Part 7, Chapter 4, Article 5. Any other detached rooms on the premises, including accessory buildings and garages, may be used to store food items for the MEHKO only if all food is stored inside of an approved refrigerator and/or freezer with a closable door/lid which will be verified upon the Department's initial inspection. Sleeping quarters or second residential units on the same property are not allowed within the Permitted Area; unless otherwise indicated as set forth in Health and Safety Code section 114367.1(b)(24).

11.17.080 Expanded Food Service.

A. Food prepared in a MEHKO may be served from an approved Compact Mobile Food Operation operated by the same MEHKO permitholder pursuant to California Health and Safety Code section 114368.3(a)(5).

B. The meal and gross annual sales limitations for MEHKOs set forth in California Health and Safety Code section 113825(a)(7) and (8) do not apply to the sale of non-potentially hazardous food or produce for up to two (2) CMFOs operated by the MEHKO, as set forth in California Health and Safety Code section 114368.3(a)(6).

C. A MEHKO may serve as a commissary or mobile support unit for up to two (2) CMFOs owned by the same permitholder if an evaluation determines the MEHKO is capable of supporting the preparation and storage of the food being sold from the CMFO(s) and the storage and cleaning of the CMFO(s) pursuant to California Health and Safety Code section 114368.3(a)(1), unless storage is prohibited by city ordinance, as authorized by California Health and Safety Code section 114368.3(c)(1).

The evaluation may be conducted as part of the initial application process. A permitted MEHKO that wishes to later expand to support up to two (2) CMFOs will incur a fee based on the hourly rate established in Section 8.04.728 of this Code.

D. As authorized under Health and Safety Code section 114368.3(a)(8), food preparation for a permitted MEHKO operating in conjunction with an approved CMFO is expanded to no more than eighty (80) individual meals per day and no more than two hundred (200) individual meals per week. Except as identified in section B. above, a permitted MEHKO operating in conjunction with a CMFO shall not have more than one-hundred and fifty thousand dollars (\$150,000.00) in verifiable gross annual sales, as adjusted annually for inflation based on the California Consumer Price Index.

11.17.090 Safety.

A. A properly charged and maintained minimum ten (10) BC-rated fire extinguisher to combat grease fires shall be readily accessible.

B. A first aid kit shall be available and located in a convenient and accessible area.

11.17.100 Signage Prohibited.

No signage or other outdoor display advertising the MEHKO is allowed anywhere on the property from which the MEHKO is operating.

11.17.110 Inspections.

A. The Department shall conduct an initial inspection of a MEHKO upon the initial application seeking approval for a public health permit.

B. A MEHKO is subject to one routine inspection per year as specified in California Health and Safety Code section 114367.3.

C. Additional inspections conducted as a result of a complaint or emergency circumstances will be conducted in the manner set forth in California Health and Safety Code sections 114367.3(a)(2) and (3).

D. If a MEHKO is found to be in violation of any of the requirements in this Chapter or California Health and Safety Code, Division 104, Part 7, Chapter 11.6, or if additional inspections or complaint-based investigations are required to ensure compliance with this Chapter or State law, the Department may seek cost recovery, based on the hourly rate established in Section 8.04.728 of this Code.

11.17.120 Potable Water.

A. A MEHKO whose potable water supply comes from a private well shall submit with their permit application sample test results verifying the water supply meets at a minimum the definition of Transient Noncommunity Water System as defined in California Health and Safety Code section 116275(o) and standards set forth in the California Code of Regulations, Title 17 and 22. Sample results shall include nitrate, nitrite, and bacteriological water quality.

B. MEHKO Operators whose potable water supply comes from a private well and whose permits are initially approved shall complete water quality testing and also maintain the test results, which shall be made available for review by the County Health Officer during a routine inspection or complaint investigation. Water quality testing frequency shall be in accordance with Transient Noncommunity Water System requirements and include:

1. Quarterly bacteriological testing.
2. Annual nitrate testing, unless the results are greater than or equal to fifty (50) percent of the Maximum Contaminant Level ("MCL"), in which case testing

shall be completed quarterly for one (1) year. If after one (1) year, no additional results are greater than or equal to fifty (50) percent of the MCL, the testing may return to annually.

3. Nitrite testing every three (3) years, unless the results are greater than or equal to fifty (50) percent of the MCL, in which case testing shall be completed quarterly for one (1) year. If after one (1) year, no additional results are greater than or equal to fifty (50) percent of the MCL, the testing may return to every three (3) years.

11.17.130 Public Notification.

A. Within fifteen (15) business days of issuance of a public health permit for a MEHKO, the Department shall update its website to reflect the newly permitted MEHKO.

B. The Department shall notify any incorporated city of the issuance of a MEHKO public health permit within its jurisdiction, no later than fifteen (15) business days of issuance of the public health permit.

C. The Department shall notify any incorporated city when a MEHKO public health permit within its jurisdiction has been suspended or revoked, no later than fifteen (15) business days of suspension or revocation of the public health permit.

D. The Department shall post all routine and complaint-based inspection results for MEHKOs on its website.

11.17.140 Notice of Inspection Results.

A. All official inspection reports issued to a MEHKO shall be issued pursuant to the requirements set forth in Section 8.04.650 of this Code.

B. Any additional reinspection fees to be charged to a MEHKO shall be similarly noticed as provided in Section 8.04.650 B of this Code.

11.17.150 Exemption from Restaurant and Home-based Occupation Standards.

For the purposes of this Chapter, all permitted MEHKOs are not restaurants as the term is used in the County Code, and are exempt from the provisions of Title 22, Division 7, Chapter 22.140, Section 22.140.290-A. All permitted MEHKOs shall not be subject to the standards for Home-based Occupations as set forth in Title 22, Division 7, Chapter 22.140, Section 22.140.290 C. 5, 8 and 12.

11.17.160 Implementation.

The Department is responsible for the administration of this Chapter, which may include public education, public outreach, and promulgating policies, guidelines and rules consistent with the provisions of this Chapter and the County Code.

11.17.170 Severability.

If any subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The Board of Supervisors hereby declares that it would have adopted this Chapter and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to any portion of the Chapter would be subsequently declared invalid or unconstitutional.

11.17.180 Effective Date.

A. Provisions of this Chapter related to the application and procurement of a Microenterprise Home Kitchen Operation public health permit shall be effective November 1, 2024.

B. Enforcement for failure to comply with provisions of this Chapter related to obtaining the required public health permits shall commence on January 1, 2025.

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