

BOARD OF SUPERVISORS, COUNTY OF AMADOR, STATE OF CALIFORNIA

ORDINANCE NO. 1824

**AN ORDINANCE OF THE COUNTY OF AMADOR REGULATING
MICROENTERPRISE HOME KITCHEN OPERATIONS AND INCORPORATING BY
REFERENCE HEALTH AND SAFETY CODE SECTIONS 113789, 113825, 114367,
114367.1 – 114367.6, AND 114390**

The Board of Supervisors of the County of Amador ordains as follows:

SECTION I. Chapter 7.44 is hereby added to Title 7 of the Amador County Code as follows:

7.44.010 Purpose and applicability.

The purpose of this ordinance is to implement, and incorporate by reference, the California Retail Food Code (CRFC) as it applies to Microenterprise Home Kitchen Operations (MEHKOs) codified as California Health and Safety Code (HSC) Sections 113789, 113825, 114367, 114367.1 - 114367.6, and 114390. The requirements of this ordinance are applicable County-wide. MEHKOs are subject to applicable requirements of the CRFC, unless specifically exempted under State law. In case of any inconsistency between a provision of this chapter and an applicable provision of the CRFC, the CRFC provision takes precedence.

7.44.020 Definitions.

- A. "CRFC" means the California Retail Food Code, which is codified in the California Health and Safety Code.
- B. "Department" means the Amador County Environmental Health Department.
- C. "Director" means the Director of the Amador County Environmental Health Department and any person appointed by the Director to enforce or administer this chapter.
- D. "HSC" means California Health and Safety Code
- E. "MEHKO" means "Microenterprise Home Kitchen Operation" as defined in HSC Section 113825.
- F. "MEHKO Operator" means the resident of the private home who holds the permit for the MEHKO and is responsible for the operation.
- G. "Permitted Area" means a private home kitchen described and authorized in the permit for the MEHKO, the on-site consumer eating area, toilet room, janitorial or cleaning facilities, refuse

storage area, and attached rooms within the home that are used exclusively for food, utensil and equipment storage. Detached accessory buildings, including garages, and sleeping quarters, enclosed patios or second units are not included as a Permitted Area.

H. "Potable Water" is as defined in CRFC 113869, and means water that complies with the standards for transient noncommunity water systems pursuant to the California Safe Drinking Water Act, commencing with HSC 116270 to the extent permitted by federal law.

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

7.44.030 MEHKO facility permit requirements.

A. No person shall operate a MEHKO without a valid permit issued by the Department. Application for a permit must be made on a form or forms provided by the Department, and the applicable permit fees set out in this ordinance must be paid.

B. The permit application for any MEHKO permit shall, in compliance with CRFC Section 114367.2(c), require a list of the equipment and standard operating procedures the MEHKO Operator proposes to use.

C. A MEHKO permit is not transferrable. The owner of the property, if different from the MEHKO Operator, must provide written consent for the MEHKO, prior to the issuance of a permit from this Department.

D. MEHKO permits may be modified, suspended, or revoked as provided in the CRFC.

E. The MEHKO Operator shall comply with all nuisance ordinances applicable to the jurisdiction in which the operation is occurring.

F. The Department shall develop a form by which it will notify an incorporated city whenever a MEHKO is to be permitted within that respective jurisdiction.

7.44.040 Permit fees and plan check.

A. Department fees pertaining to MEHKOs are hereby established as follows:

1. Annual Permit - \$185. This fee covers annual inspections.
2. Plan Review - \$120. This fee covers one (1) hour to perform the initial plan check as well as to review proposed changes to an existing operation, a facility remodel, or a menu modification. A minimum of one (1) hour shall be collected at time of application. Any

additional time required for the plan review process may be billed out at 30-minute increments.

B. Unusual circumstances requiring additional staff time in excess of that budgeted for the annual inspection, shall require payment of additional fees to be levied by the department at the hourly rate of \$120, based on 30 minute increments, at the time the service is rendered. Such unusual circumstances include, but are not limited to, complaint investigations, re-inspections for violations, and technical assistance.

C. The fees listed in this section shall be valid until such time as the Amador County Environmental Health Department Master Fee Schedule (Fee Schedule) is revised to incorporate the new fees therein. Prior to incorporating these new fees into the Fee Schedule, a time/cost accounting study will be completed to ensure that the proposed fees are adequate and fair or adjusted accordingly. Once the Fee Schedule has been updated, the fees listed in this Section shall be void and the fees in the Fee Schedule shall be the valid fees. Any annual permit shall be valid until the end of the calendar year in which it is obtained.

7.44.050 Operational requirements and prohibitions applicable to MEHKO operators.

A. Consistent with, and in addition to, the operational requirements set forth in CRFC Section 114367, et seq., a MEHKO shall comply with all of the following:

1. The MEHKO Operator shall successfully pass an approved and accredited Manager's Food Safety Certification Examination, in compliance with CRFC Section 113947.1, and submit proof of certification with the permit application for a MEHKO operation.
2. Any person(s) participating in the MEHKO, other than the Operator, shall obtain a Food Handler card from an American National Standards Institute (ANSI) accredited training provider within ten (10) days of commencing such participation as specified in CRFC Section 113948.
3. All food storage within the permitted area shall comply with Chapter 4, Article 5 of the CRFC.
4. Only one MEHKO may operate per residence.
5. MEHKO Operators whose potable water supply comes from a private well shall demonstrate that water used for food operations, including dish washing, handwashing, and water used as an ingredient, meets potable drinking water standards. The Department is authorized with this ordinance to develop a policy for initial and ongoing water quality monitoring by MEHKOS.
6. When a MEHKO is proposed for a private residence with an on-site wastewater disposal system, the operator shall demonstrate the system is adequate to serve the addition of the

MEHKO operation. The Department is authorized with this ordinance to develop a policy for making this adequacy determination.

7.44.060 Inspections.

A. The Department shall inspect a MEHKO upon the initial application, as well as on an annual basis, or due to a consumer complaint, if there is reason to suspect that unsafe food has been produced, or there is another violation of this Ordinance. An inspection form provided by the Department shall be used for all inspections. An inspection will be conducted after reasonable advanced notice is given to the Resident of a Private Home and will include Permitted Areas and vehicles used for transporting food to or from a MEHKO. The Department may seek cost recovery, based on the hourly rate established by this ordinance if additional inspections or complaint investigations are required to ensure compliance with this Ordinance.

B. If the applicant refuses to allow an inspection, or is otherwise unable to allow an inspection within a reasonable time, permits may be denied, revoked, or placed on hold.

7.44.070 Enforcement

When a MEHKO is in violation of the CRFC, the Department may utilize the enforcement remedies set forth in CRFC Sections 114387, 114390, 114405, and 114409.

7.44.080 Pilot program extent and duration.

In order to ensure that the MEHKO program will be successful, a pilot program will begin as of the effective date of this ordinance.

1. The pilot program will consist of a maximum of two (2) permits in effect at any given time in Amador County.
2. A review of the pilot program by the Amador County Board of Supervisors will occur one year after the effective date of this ordinance.
3. The provisions of this chapter, and any permits issued pursuant to it, shall expire 18 months from the effective date of this ordinance, unless the program is extended or expanded by the Board.

7.44.090 Severability.

If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this Ordinance which can be given effect without the invalid

provision or application, and to this end, the provisions of this Ordinance are hereby declared to be severable.

SECTION II. The Board of Supervisors finds and declares that this ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15308 (actions taken as authorized by local ordinance to assure protection of the environment) and 15061(b)(3) (“common sense exemption,” whereby there is no possibility the activity in question may have a significant effect on the environment). It is exempt pursuant to CEQA 15308 because it is a regulatory action taken by the County pursuant to its police power.

SECTION III. A summary of this ordinance shall be published within fifteen days after the date hereof in a newspaper of general circulation and published in the County of Amador, State of California, and shall become effective thirty days after the date hereof.

The foregoing ordinance was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 14th day of June 2022, by the following vote:

AYES: Richard M. Forster, Jeff Brown, Brian Oneto, Patrick Crew, Frank U. Axe

NOES: None

ABSENT: None


Richard M. Forster, Chairman, Board of Supervisors

ATTEST:

JENNIFER BURNS, Clerk of the
Board of Supervisors, Amador County
California Deputy


