

**MEETING DATE 12/6/2023 (1)**

**ORDINANCE NO. 10883 (NEW SERIES)**

**ORDINANCE AMENDING THE REGULATORY CODE RELATING TO COTTAGE FOOD OPERATION (CFO) PROGRAM THROUGHOUT THE COUNTY OF SAN DIEGO TO ALLOW THE SALE OF NON-POTENTIALLY HAZARDOUS FOOD WITH CARTS**

The Board of Supervisors of the County of San Diego ordains as follows:

**Section 1. Purpose.**

The purpose and intent of this Ordinance is to allow for small-scale, direct food sales from home-based food facilities to prioritize locally prepared foods to consumers. This will allow small-scale entrepreneurs entry into the retail food economy and will help provide them with access to guidelines, training, and safety resources.

Section 2. Section 61.102 of the San Diego County Code is hereby amended to read as follows:

**SEC. 61.102. DEFINITIONS.**

The following definitions shall apply to this chapter, and to Chapter 3 of this Title:

"CFO" means "Cottage Food Operation" as defined in HSC section 113758.

"CMFO" means "Compact Mobile Food Operation," including the use of carts as defined in HSC section 113831(c).

"CRFC" means the California Retail Food Code, which is codified in the California Health and Safety Code

"Department" means the County Department of Environmental Health and Quality.

"Director" means the Director of Environmental Health and any person appointed by the Director to enforce or administer this chapter.

"Equipment" has the same meaning as the term "equipment" in HSC section 113777.

"Expedited Plan Check Inspection" means plan check field inspection service that is provided within an accelerated time frame.

"Expedited Plan Review" means plan review service that is provided at an accelerated time frame.

"Food" has the same meaning as the term "food" in HSC section 113781.

"Food Equipment Rental Establishment" means an establishment that provides food service equipment or utensils such as dishes, tableware, pots and pans to food facilities, catering operations, or to the public. Food equipment rental establishments are food facilities under the CRFC. (HSC section 113789(a)(2).)

"Food Facility" has the same meaning as the term "food facility" in HSC section 113789, and also includes a "catering operation" or "catering facility" and a "catering host facility" as defined in Chapter 3 of this Title.

"Food Handler" means a person who prepares, handles, packages, serves or stores food or handles utensils, or assists another person in any of those tasks at a food facility that requires a permit pursuant to this chapter.

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"HSC" means the California Health and Safety Code.

"Imminent Health Hazard" has the same meaning as the term "imminent health hazard" in HSC section 113810.

"Limited Beverage Service" means for the purpose of section 65.107(a), a temporary food facility operation that only serves non-potentially hazardous beverages requiring no preparation other than dispensing from the approved container or draft, directly into the consumer's beverage container. Limited beverage service does not include any operation that requires the mixing of ingredients, addition of ice or garnishes to a beverage, or the addition of any potentially hazardous ingredients.

"MEHKO" means "Microenterprise Home Kitchen Operation" as defined in HSC Section 113825.

"Minimal Low-Risk Food Facility" means for purposes of section 65.107(a):

(a) A retail food facility that is operating as defined in HSC Section 113818.

(b) A facility that only serves frozen milk products

(c) A facility that holds an Alcoholic Beverage Control license type 42 or 48 facility, as long as the facility does not engage in slicing, chopping or grinding of raw potentially hazardous foods, reheating for hot holding, washing of foods, or cooking, baking, barbecuing, broiling, frying or grilling any food.

"Minor Remodel" means the installation of new equipment to an existing facility, or the construction, building, repair, or alteration of existing areas of the facility that does not exceed 300 square feet and includes, but is not limited to, structural, plumbing, mechanical, or electrical work.

"Miscellaneous Food Facility" means a facility with 25 square feet or more of food display area (including Candy Stores, Concession Stands, Host Facilities, and Prepackaged Non-Potentially Hazardous Foods), and Catering Equipment Rentals and Retail Food Delivery (delivery of food made at a retail food facility to another location by a person other than an employee of the retail food facility where the food was prepared).

"Multiple Kitchen Complex Operation" means any establishment used as a place of business for the purpose of leasing, renting, or otherwise providing individual commercial kitchen space to independent retail food facility operations, where that space is not used or shared by another operator. Common shared infrastructure such as restroom facilities, janitorial facilities, dry food storage, and refrigerated and/or frozen food storage is provided for each individual tenant to use.

"Prepare" means to package, process, assemble, portion or engage in any operation that changes the form, flavor or consistency of food, but does not include trimming produce.

"Ready-to-Eat Food" has the same meaning as the term "ready-to-eat food" in HSC section 113881.

"Revision" means any plan submittal required for corrections identified or minor changes to the initial submittal for any New, Major Remodel, or Minor Remodel project.

"School Auxiliary Facility" means an educational facility that is serviced by a School Food Processing Facility, or other permitted food facility, and conducts processes that include but are not limited to dispensing, reheating, and storage of potentially hazardous foods. Auxiliary Facilities may open prepackaged food as necessary to stock an onsite salad bar and rinse whole uncut produce. All other food preparation, including the slicing and processing of produce, must be conducted at a School Food Processing Facility.

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"School Food Processing Facility" means an educational facility that conducts full processing including, but is not limited to, handling, preparing, assembling, cooking, cooling, and reheating of potentially hazardous foods; washing and slicing of produce. This site may be a stand-alone site, or a centralized location that services multiple auxiliary kitchens.

"Tableware" has the same meaning as the term "tableware" in HSC section 113926.

"Utensil" has the same meaning as the term "utensil" in HSC section 113934.

Section 3. Section 61.116 of the San Diego County Code is hereby added to read as follows:

**SEC. 61.116. OPERATIONAL REQUIREMENTS APPLICABLE TO COTTAGE FOOD OPERATORS.**

(a) Cottage Food Operations (CFOs) whose potable water supply comes from a private well shall submit with their permit application sample results verifying the water supply meets at minimum a "Transient Non-Community Water System" standard, as defined in HSC Section 116275(o). Sample results shall include nitrate, nitrite, bicarbonate, carbonate and hydroxide alkalinity, calcium, iron, magnesium, manganese, pH, specific conductance, sodium, total hardness and bacteriological water quality.

(b) CFOs whose permits are initially approved shall submit annually with the CFO permit renewal, updated nitrate, nitrite and bacteriological water sample results that show the water supply continues to meet "Transient Non-Community Water System" potable water standards. CFOs served by a public water system with groundwater sources shall submit documentation that water supply meets at minimum Transient Non-Community water quality standards.

(c) Transactions at up to two CMFOs operated by a CFO shall not count toward the annual gross sales restrictions in HSC Section 113758 applicable to CFOs.

Section 4. Effective Date. This Ordinance shall take and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in the Daily Transcript, a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY  
Claudia G. Silva, County Counsel  
BY: Gregory L. Lusitana, Senior Deputy County Counsel

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 6<sup>th</sup> day of December 2023.




NORA VARGAS  
Chair, Board of Supervisors  
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Vargas, Anderson, Montgomery Steppe, Desmond  
NOT PRESENT: Lawson-Remer

ATTEST my hand and the seal of the Board of Supervisors this 6<sup>th</sup> day of December 2023.

ANDREW POTTER  
Clerk of the Board of Supervisors

By   
Sidra Marshall, Deputy



Ordinance No.: 10883 (N.S.)  
Meeting Date: 12/6/2023 (01)