

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM
3.10
(ID # 8960)

MEETING DATE:

Tuesday, March 26, 2019

FROM : ENVIRONMENTAL HEALTH:

SUBJECT: ENVIRONMENTAL HEALTH: Introduction of and Set Public Hearing for County of Riverside Ordinance No. 949, an Ordinance Regulating Home Kitchen Operations; CEQA Exempt; All Districts. [\$0] (Clerk to Advertise - Set Public Hearing for 4/16/19)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Introduce, read title and waive further reading of, and set for public hearing on April 16, 2019, County of Riverside Ordinance No. 949, an Ordinance Regulating Home Kitchen Operations; and
2. Find that the introduction and adoption of County of Riverside Ordinance No. 949 is exempt from CEQA pursuant to CEQA Guidelines 15061 (b)(3) based on the findings set forth below; and
3. Direct the Clerk of the Board to file the Notice of Exemption with the County Clerk for posting within five days of approval of this matter.


ACTION:Policy


Keith Jones, Director Environmental Health 3/7/2019

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Perez, seconded by Supervisor Hewitt and duly carried, IT WAS ORDERED that the above matter is approved as recommended; the above Ordinance is approved as introduced with a waiver of reading; and is set for public hearing on Tuesday, April 16, 2019 at 9:00 a.m. or as soon as possible thereafter.

Ayes: Jeffries, Spiegel, Perez and Hewitt
Nays: Washington
Absent: None
Date: March 26, 2019
xc: Environmental Health, Recorder, COB

Kecia Harper
Clerk of the Board
By: 
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

| FINANCIAL DATA | Current Fiscal Year: | Next Fiscal Year: | Total Cost: | Ongoing Cost |
|---|-----------------------------|--------------------------|---------------------------|---------------------|
| COST | \$ 0 | \$ 0 | \$ 0 | \$ 0 |
| NET COUNTY COST | \$ 0 | \$ 0 | \$ 0 | \$ 0 |
| SOURCE OF FUNDS: Permit fees and service fees. | | | Budget Adjustment: | No |
| | | | For Fiscal Year: | 18/19 |

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

On December 4, 2018, the Board of Supervisors directed Environmental Health to prepare and process a new Ordinance for issuing permits and regulating Microenterprise Home Kitchen Operations, consistent with AB 626. This Ordinance will allow small-scale, food preparation and direct food sales from home based food facilities to consumers. Permits issued by the Department of Environmental Health would be valid in every city within the County. This Ordinance will provide an entry into the food economy while providing access to guidelines, training and safety resources.

The proposed Ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15601 (b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Approval of Riverside County Ordinance 949 allows for food preparation and direct sales from existing private home kitchens but does not approve any project development. The proposed Ordinance would not individually or cumulatively result in the possibility of creating significant effects on the environment.

Previous Agenda Reference:

- Item 3.1 10/2/18 (MT#8132)
- Item 3.30 12/4/18 (MT#8193)

Impact on Residents and Businesses

While AB 626 will increase legal business opportunities for home kitchen operations, and will increase local dining options for consumers, it is uncertain if the limited health and safety provisions will prevent foodborne illness or the potential for public nuisance within neighborhoods.

Attachments

- Ordinance No. 949
- Ordinance No. 949 – Summary
- Ordinance No. 949 – Notice of Exemption

ORDINANCE NO. 949

AN ORDINANCE OF THE COUNTY OF RIVERSIDE 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 Riverside ordains as follows:

Section 1. PURPOSE AND INTENT. 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 entry into the food economy will help provide access to guidelines, training and safety resources.

Section 2. AUTHORITY. Assembly Bill 626 was passed on September 18, 2018, adding to and amending sections of the California Health and Safety Code, relating to food safety. This ordinance is adopted in accordance with Assembly Bill 626 and pursuant to the Board of Supervisors' police powers as set forth under Article XI, section 7 of the California Constitution. This Ordinance shall be administered and implemented by the Riverside County Department of Environmental Health.

Section 3. DEFINITIONS. The definitions set forth in Health and Safety Code section 113789 are incorporated by reference in this ordinance. The following terms are consistent with California Health and Safety Code Section 113825 and shall have the following meanings:

- A. Department. Riverside County Department of Environmental Health.
- B. Enforcement Officer. The Director of Environmental Health and his or her duly authorized designees.
- C. Microenterprise Home Kitchen Operation Operator. The resident of the private home who holds the permit for the MHKO and is responsible for the operation.
- D. Microenterprise Home Kitchen Operation (MHKO). As defined by section 113825 of the California Health and Safety Code, is a food facility with gross annual sales limits set forth in subdivision (a) subsection (7) of section 113825 operated by a MKHO Operator and having not more than one full-time equivalent food employee, not including a family member or household member of the MHKO Operator, and conducted within the Permitted Area of a private home where the MHKO Operator resides and where Microenterprise Home Kitchen foods are prepared or packaged for direct sales or delivery to consumers pursuant to section 113825 subdivision (a) subsection (3) of the Health and Safety Code.
- E. Permitted Area. A private home kitchen described and authorized in the permit for the MHKO, 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.
- F. Resident of a Private Home. An individual who resides in the private home when not elsewhere for labor or other special or temporary purposes.

Section 4. INSPECTIONS. The Department shall inspect MHKO 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 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 MHKO. The Department may seek cost recovery, based on the hourly rate established in the current version of Ordinance 640 if additional inspections or complaint investigations are required to ensure compliance with this Ordinance.

Section 5. OPERATING REQUIREMENTS. Consistent with the operational requirements set forth in California Health and Safety Code Section 114367, et seq., a MHKO shall comply with the following:

- A. No MHKO food preparation, packaging, or handling may occur concurrent with any other domestic activities, including, but not limited to, family meal preparation, guest entertaining, or dishwashing.
- B. Other than service animals, as defined in section 35.104 of Title 28 of the Code of Federal Regulation, all animals shall be excluded from the kitchen and dining areas during food service and preparation.
- C. Equipment and utensils used to produce MHKO food shall be smooth, easily cleanable, and maintained in a good state of repair.
- D. All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any MHKO food shall be washed, rinsed, and sanitized before each use.
- E. All MHKO food must be stored, prepared, packaged, transported and kept for sale, and served to be pure and free from adulteration and spoilage and shall be maintained protected from contamination.
- F. All MHKO potentially hazardous food must be stored and transported with proper internal food temperatures.
- G. All Permitted Areas and vehicles used to transport shall be maintained clean, sanitary, in a good state of repair, and free of rodents and insects.
- H. No preparation, packaging, storage, or handling of MHKO food and related ingredients and/or equipment shall occur outside of the Permitted Area.
- I. A person with a contagious illness shall not work in the MHKO.
- J. A person involved in the preparation or packaging of MHKO food shall keep his or her hands and exposed portions of his or her arms clean and shall properly wash his or her hands before any food preparation or packaging activity.
- K. Water used during the preparation of MHKO food products shall meet potable drinking water standards.
- L. The private sewage disposal system must be adequate for the additional liquid waste.
- M. The MHKO Operator shall successfully pass an approved and accredited food safety manager certification examination.
- N. Any person(s) involved with the MHKO shall obtain a Riverside County Food Handler Certification within one (1) week as per Riverside County Ordinance 567.
- O. The MHKO Operator shall submit and maintain standard operating procedures with a complete menu, and operational days/hours.
- P. Only one (1) MHKO may operate per site.
- Q. No signage or other outdoor displays advertising the MHKO are allowed.
- R. All MHKO food shall be prepared, cooked, and served on the same day.

- S. MHKO food shall be consumed onsite at the MHKO, offsite if the food is picked up by the consumer or delivered to the consumer. The sale of MHKO food through an internet food service intermediary is a direct sale. The MHKO cannot provide food to any wholesaler or retailer for resale and is not a Cottage Food Operation as defined in section 113758 of the California Health and Safety Code nor a catering operation as defined in section 113739.1 subdivision (a) of the California Health and Safety Code.
- T. A person who delivers food on behalf of a MHKO shall be an employee, or family member or household member of the MHKO Operator.
- U. Only California Department of Public Health approved internet food service intermediaries may be used.
- V. MHKO may not engage in food processes that would require a HACCP plan as specified in section 114419 of the California Health and Safety Code, or produce, serve, or sell raw milk or raw milk products as defined in section 11380 of Title 17 of the California Code of Regulations, or serve raw oysters.
- W. Food preparation is limited to no more than 30 individual meals per day, or the approximate equivalent of meal components when sold separately, and no more than 60 individual meals per week, or the approximate equivalent of meal components when sold separately. The Department may decrease the number of individual meals prepared based on the food preparation capacity of the MHKO, but shall not, in any case, increase the limit of the number of individual meals prepared.
- X. The MHKO has no more than fifty thousand dollars (\$50,000) in verifiable gross annual sales, as adjusted annually for inflation based on the California Consumer Price Index.
- Y. For MHKO with cooking equipment, a properly charged and maintained minimum 10 BC-rated fire extinguisher to combat grease fires shall be readily accessible and a first aid kit shall be provided and located in a convenient, accessible area.

Section 6. **PERMIT.** No person shall conduct a MHKO without holding a valid permit issued by the Department. Application for a permit shall be made upon a form issued by the Department and shall be accompanied by a fee as listed below:

| | |
|-----------------|----------|
| Permit for MHKO | \$651.00 |
|-----------------|----------|

The fee listed in this section shall be valid until such time as Ordinance 640 is revised to incorporate this new fee therein. Once Ordinance 640 has been updated, the fee listed in this Section shall be void and the fee in Ordinance 640 shall be the valid fee. Any annual permit shall be valid for no more than one year from the month of issue. The application shall not be deemed as completed unless accompanied with documentation indicating that all applicable planning requirements have been met. A permit is not transferrable. The owner of the property, if different from the MHKO Operator, must provide written consent for the MHKO, prior to the issuance of a permit from this Department.

Section 7. **ENFORCEMENT.** Notwithstanding the remedies set forth in California Health and Safety Code Sections 114390, 114405, and 114409, the Department reserves the right to issue administrative citations in accordance with Government Code section 53069.4. An administrative citation may be issued for any violation of this Ordinance. The following procedures shall govern the imposition,

enforcement, collection and administrative review of administrative citations and penalties.

- A. Notice of Violation. If the violation is not corrected within the period stated in the notice of violation, or if the violation creates an immediate danger to health or safety, an administrative citation may be issued by the Enforcement Officer. The notice of violation shall specify the manner in which the conditions of the MHKO violate the provisions of this Ordinance and the corrective actions required to correct the condition or conduct. The notice shall also state that failure to come into compliance with this Ordinance could subject the registrant or permittee of the MHKO to administrative and criminal penalties. The failure of the notice to set forth all required contents shall not affect the validity of the proceedings.
- B. Content of Citation. The administrative citation shall be issued on a form approved by County Counsel and shall contain the information listed below. The failure of the citation to set forth all required contents shall not affect the validity of the proceedings.
 1. Date, location and approximate time the violation was observed.
 2. The Ordinance section violated and a brief description of the violation.
 3. The amount of the administrative penalty imposed for the violation.
 4. Instructions for the payment of the penalty, the time period by which it shall be paid, and the consequences of failure to pay the penalty within this time period.
 5. Instructions on how to appeal the citation.
 6. The signature of the Enforcement Officer.
- C. Service of Citation.
 1. If the registrant, permittee or other person who has violated the Ordinance is present at the scene of the violation, the Enforcement Officer shall attempt to obtain their signature on the administrative citation and shall deliver a copy of the administrative citation to them.
 2. If the registrant, permittee or other person who has violated the Ordinance cannot be located at the property, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy mailed by certified mail, return receipt requested to the registrant or permittee who has violated the Ordinance. The citation shall be mailed to the property address and/or the address listed for the owner on the last County Equalized Assessment Roll.
 3. The failure of any interested person to receive the citation shall not affect the validity of the proceedings.
- D. Administrative Penalties.
 1. The penalties assessed for each violation shall not exceed the following amounts:
 - a. \$100.00 for a first violation;
 - b. \$200.00 for a second violation of the same Ordinance within one year; and
 - c. \$500.00 for each additional violation of the same Ordinance within one year.
 2. If the violation is not corrected, additional administrative citations may be issued for the same violation. The amount of the penalty shall increase at the rate specified above.
 3. Payment of the penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement action.
 4. The penalties assessed shall be payable to the County of Riverside.
- E. Administrative Appeal.

1. Notice of Appeal. The recipient of an administrative citation may appeal the citation by filing a written notice of appeal with the Department. The written notice of appeal must be filed within twenty (20) days of the service of the administrative citation. Failure to file a written notice of appeal within this time period shall constitute a waiver of the right to appeal the administrative citation. The notice of appeal shall contain the following information:
 - a. A brief statement setting forth the appellant's interest in the proceedings;
 - b. A brief statement of the material facts which the appellant claims supports his/her contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted;
 - c. An address at which the appellant agrees notice of any additional proceeding or an order relating to the imposition of the administrative penalty may be received by mail.
 - d. The notice of appeal must be signed by the appellant.
2. Administrative Hearing. Upon a timely written request by the recipient of the administrative citation, an administrative hearing shall be held as follows:
 - a. Notice of Hearing. Notice of the administrative hearing shall be given at least ten (10) days before the hearing to the person requesting the hearing. The notice may be delivered to the person or may be mailed to the address listed in the notice of appeal.
 - b. Hearing Officer. The administrative hearing shall be held before the Board of Supervisors, the County Hearing Officer or the County Hearing Board. The hearing officer shall not be the Enforcement Officer who issued the administrative citation or their immediate supervisor or subordinate. The Board of Supervisors, the County Hearing Officer or the County Hearing Board may contract with a qualified provider to conduct administrative hearings or to process administrative citations.
 - c. Conduct of the Hearing. Except as may be required by the hearing officer, the Enforcement Officer who issued the administrative citation is not required to participate in the administrative hearing. The contents of the Enforcement Officer's file in the case shall be admitted as prima facie evidence of the facts stated therein. The hearing officer shall not be limited by the technical rules of evidence. If the person requesting the appeal fails to appear at the administrative hearing, the hearing officer shall make his or her determination based on the information contained in the notice of appeal.
 - d. Hearing Officer's Decision. The hearing officer's decision following the administrative hearing shall be delivered to the person requesting the hearing personally or sent by mail. The hearing officer may allow payment of the administrative penalty in installments, if the person provides evidence satisfactory to the hearing officer of an inability to pay the penalty in full. The hearing officer's decision shall contain instructions for obtaining review of the decision by the superior court.

1. Notice of Appeal. Within twenty (20) days of the date of the delivery or mailing of the hearing officer's decision, a person may contest that decision by filing an appeal to be heard by the superior court. The fee for filing the notice of appeal is twenty-five dollars (\$25.00). The failure to file the written appeal and to pay the filing fee within this period shall constitute a waiver of the right to an appeal and the decision shall be deemed confirmed. A copy of the notice of appeal shall be served in person or by first class mail upon the issuing agency by the contestant.
2. Conduct of Hearing. The conduct of the appeal is a subordinate judicial duty and may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the presiding judge of the court. The appeal shall be heard de novo, except that the contents of the issuing agency's file in the case shall be received in evidence. A copy of the document or Instrument of the issuing agency providing notice of the violation and imposition of the administrative penalty shall be admitted into evidence as prima facie evidence of the facts stated therein. The court shall request that the issuing agency's file on the case be forwarded to the court, to be received within fifteen (15) days of the request.
3. Judgment. The court shall retain the twenty-five dollar (\$25.00) fee regardless of the outcome of the appeal. If the court finds in favor of the contestant, the amount of the fee shall be reimbursed to the contestant by the Department. Any deposit of the fine or penalty shall be refunded by the issuing agency in accordance with the judgment of the court. If the fine or penalty has not been deposited and the decision of the court is against the contestant, the issuing agency may proceed to collect the penalty pursuant to any manner provided by law.

Section 8. CRIMINAL PENALTIES.

- A. Any person violating any provision of this ordinance shall be guilty of an infraction or misdemeanor as hereinafter specified. Such individual shall be deemed guilty of a separate offense for each day during which any violation of this ordinance is committed or allowed to exist.
- B. Any individual convicted of a violation of this ordinance shall be:
 1. Guilty of an infraction and punished by a fine of not less than fifty dollars (\$50.00), but not exceeding one hundred dollars (\$100.00) for the first offense.
 2. Guilty of an infraction and punished by a fine of not less than one hundred dollars (\$100.00), but not exceeding two hundred dollars (\$200.00) for the second offense.
 3. The third and subsequent offenses shall constitute misdemeanor and shall be punishable by a fine of not less than five hundred dollars (\$500.00) but not to exceed one thousand dollars (\$1,000.00), imprisonment of up to six months in the county jail, or both.
 4. Notwithstanding subsections A. and B. above, the first or second offense may be charged and prosecuted as misdemeanor.
- C. Payment of any penalty herein shall not relieve any individual from the responsibility of correcting the violations as found by the enforcement officer.
- D. Any person found not in compliance with state law and/or this ordinance is subject to citation, permit suspension/revocation, lien, or other legal action as deemed necessary by the Department.

Section 9. **NUISANCE DEFINED.** Any MHKO, whether permitted or not pursuant to the procedures of this Ordinance, found in violation of this Ordinance is hereby declared to be a public nuisance and dangerous to the health and safety of Riverside County.

- Section 10.** **CIVIL ACTIONS.**
- A. Injunctive Relief and Abatement. Whenever, in the judgment of the Enforcement Officer, any person is engaged in or about to engage in any act or practice which constitutes or will constitute a violation of any provision of this Ordinance, or any rule, regulation, order, permit or conditions of approval issued thereunder, upon the request of the Enforcement Officer, the County Counsel or District Attorney may commence proceedings for the abatement, removal, correction and enjoinder thereof, and require the violator to pay civil penalties and/or abatement costs.
- B. Civil Remedies and Penalties. Any person, whether acting as principal, agent, employee, Owner, lessor, lessee, tenant, occupant, operator, contractor or otherwise, who willfully violates the provisions of this Ordinance or any rule, regulation, order or conditions of approval issued thereunder, shall be liable for a civil penalty not to exceed \$1,000.00 for each day or portion thereof, that the violation continues to exist. In determining the amount of the civil penalty to impose, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the violator, whether corporate or individual, and any corrective action taken by the violator.

Section 11. **COSTS AND DAMAGES.** Any person, whether acting as a principal, agent, employee, Owner, lessor, lessee, tenant, occupant, operator or contractor, or otherwise, violating any provisions of this Ordinance or the rules, regulations, orders, permits or conditions of approval issued thereunder, shall be liable to the County of Riverside for costs of abatement and any damages suffered by the County, its agents and agencies, as a result of such violations.

Section 12. **RECOVERY OF ATTORNEYS' FEES IN NUISANCE ABATEMENT CASES.** In any action, administrative proceeding, or special proceeding to abate a nuisance, attorneys' fees may be recovered by the prevailing party. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the County in the action or proceeding.

Section 13. **REMEDIES AND PENALTIES.** All remedies and penalties provided for herein shall be cumulative and not exclusive. The conviction and punishment of any person hereunder shall not relieve such person from the responsibility of correcting, removing or abating the violation, nor prevent the enforced correction, removal or abatement thereof. Each and every day during any portion of which any violation of this Ordinance or the rules, regulations, orders, Permits or conditions of approval issued thereunder is committed, continued, or permitted by such person, shall be deemed a separate and distinct offense.

Section 14. **RIGHT OF INSPECTION.** Pursuant to the Health and Safety Code, the Department shall have the right to enter, inspect, issue citations to, and secure any sample, photographs, or other evidence from any MHKO, or any facility

suspected of being a MHKO, or a vehicle transporting food to or from a MHKO, at any reasonable time. Unless the Department fails to provide proper identification, refusing an inspection may result in the permit being suspended or revoked, and/or the owner or operator shall be guilty of an infraction or misdemeanor offense.

Section 15. **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 16. **EFFECTIVE DATE.** This ordinance shall take effect thirty (30) days after its adoption.

SUMMARY OF PROPOSED ORDINANCE NO. 949

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

This summary is presented pursuant to California Government Code Section 25124(b); a certified copy of the full text of Ordinance No. 949 may be examined at the Office of the Clerk of the Board of Supervisors of the County of Riverside located at 4080 Lemon Street, 1st Floor, Riverside, California.

Ordinance No. 949 implements newly added sections in California Health and Safety Code and allows for small-scale, direct food sales from home based food facilities. It establishes a system for permitting home-based food businesses while providing access to guidelines, training and safety resources. The Department of Environmental Health will administer and implement the Ordinance, inspecting Microenterprise Home Kitchen Operations (MHKO) upon initial application and annually thereafter, to ensure consistency with state law.

Ordinance No. 949 requires operators to follow safe and healthy food preparation and service practices as detailed in California Health and Safety Code; including proper food handling, dishwashing, food service, hand washing and food transportation. All food must be prepared and served on the same day, and is limited to 30 individual meals per day and no more than 60 individual meals per week. The MHKO must have verifiable gross sales of \$50,000 annually (adjusted for inflation based on CPI). Standard operating procedures and a menu of offered foods must be evaluated. The operator must pass an accredited food safety managers certification exam. Additionally, this ordinance sets forth the associated fees for permits, and contains the penalties for violations of the ordinance requirements, which include criminal infractions, misdemeanors, administrative penalties, abatement, and other civil remedies and defines a violation as a nuisance.

The Riverside County Board of Supervisors will consider initiating a public hearing of the ordinance on March 26, 2019 and adoption of the ordinance after a public hearing on April 16, 2019.

NOTICE OF EXEMPTION

To: _____ Office of Planning and Research From: County of Riverside
1400 Tenth Street, Room 121 4080 Lemon Street
Sacramento, CA 95814 Riverside, CA 92501
To: X Office of the County Clerk & Recorder

Project Title: Ordinance No. 949 Regulating Microenterprise Home Kitchen Operations

Project Location: The unincorporated area and all incorporated Cities within Riverside County.

Project Description: Ordinance No. 949 is a new ordinance that would allow for the permitting and regulation of home-based kitchens with limited retail sales of prepared meals within the County of Riverside.

Name of Public Agency Approving Project: County of Riverside

Project Sponsor: Department of Environmental Health of the County of Riverside

Exempt Status: (check one)

- ☐ Ministerial
☐ Declared Emergency
☐ Emergency Project
☐ Categorical Exemption
☐ Statutory Exemption (State CEQA Guidelines Sec. 15273)
☒ Other: (State CEQA Guidelines Sec. 15061(b)(3))

Reasons Why Project is Exempt: The project is exempt from the provisions of the California Environmental Quality Act (CEQA) specifically by the State CEQA Guidelines as identified below. The project will not cause any impacts to scenic resources, historic resources, or unique sensitive environments. Further, no unusual circumstances or potential cumulative impacts would occur that may reasonably create an environmental impact.

Section 15061 (b)(3) – “Common Sense” Exemption. The adoption of Ordinance No. 949 is exempt from CEQA pursuant to State CEQA Guidelines section 15061(b)(3), the “Common Sense” exemption. In accordance with CEQA, the use of the Common Sense Exemption is based on the “general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.” State CEQA Guidelines, §15061(b)(3). The use of this exemption is appropriate if “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” *Ibid*. This determination is an issue of fact and if sufficient evidence exists in the record that the activity cannot have a significant effect on the environment, then the exemption applies and no further evaluation under CEQA is required. See *Muzzy Ranch Co. v Solano County Airport Land Use Comm’n* (2007) 41 Cal.4th 372. The adoption of Ordinance 949 pertains to the regulation, inspection and permitting requirements related to microenterprise home kitchens, wherein people will prepare meals cooked within their own home kitchens. It can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment. Approval of proposed Riverside County Ordinance 949 does not approve any development project. The amendment merely outlines the regulatory process by which such home kitchens are expected to operate. The proposed ordinance would not individually or cumulatively result in the possibility of creating significant effects on the environment and no direct or reasonably foreseeable indirect environmental impacts would occur. Therefore, the use of the Common Sense exemption is appropriate for this project.

Eric Stopher, Deputy County Counsel
County Contact Person

951-955-6300

Phone Number

Signature:  Title: Deputy County Counsel Date: 3/4/19

For County Clerk's Use Only

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