



City of El Cajon

Planning Commission Agenda

Tuesday, March 1, 2022 Meeting

7:00 PM

ANTHONY SOTTILE, Chair
DARRIN MROZ, Vice Chair
PAUL CIRCO
REBECCA POLLACK-RUDE
ELIZABETH VALLES

Meeting Location: City Council Chambers, 200 Civic Center Way, El Cajon, CA, 92020

Please note that, pursuant to State and County Health Orders, in-person meetings have resumed. The public is welcome to attend and participate.

The meeting will be live-streamed through the City website at: <https://www.elcajon.gov/your-government/city-meetings-with-agendas-and-minutes-all>.

To submit written comments on an item on this agenda, or a Public Comment, please e-mail the comments with Planning Commission in the subject line to planning@elcajon.gov before 5 p.m. on Tuesday, March 1, 2022. Comments will be limited to 300 words and will be entered into the official Commission Meeting Record.

The City of El Cajon is endeavoring to be in total compliance with the Americans with Disabilities Act. If you require assistance or auxiliary aids in order to participate at the Commission meeting, please contact our office at 619-441-1742 as soon as possible.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CHAIRPERSON'S WELCOME

PUBLIC COMMENT

This is the opportunity for the public to address the Commission on any item of business within the jurisdiction of the Commission that is not on the agenda. Under state law no action can be taken on items brought forward under Public Comment except to refer the item to staff for administrative action or to place it on a future agenda. Non-agenda public comments must be submitted before the end of public comment during the meeting.

CONSENT

Agenda Item:	1
	Planning Commission minutes of November 16, 2021

PUBLIC HEARINGS

Agenda Item:	2
Project Name:	Microenterprise Home Kitchen Operations Performance Standards
Request:	Zoning Code Amendment
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	RECOMMEND CITY COUNCIL APPROVAL
Project Number(s):	Zoning Code Amendment No. ZCA-2022-0001
Location:	Citywide
Applicant:	City of El Cajon
Project Planner:	Michael Viglione; mviglione@elcajon.gov ; 619-441-1773
City Council Hearing Required?	Yes March 22, 2022
Recommended Actions:	<ol style="list-style-type: none"> 1. Conduct the public hearing; and 2. MOVE to adopt the next resolution in order recommending City Council approval of proposed Zoning Code Amendment No. ZCA-2022-0001.

Agenda Item:	3
Project Name:	Administrative Determinations Report
STAFF RECOMMENDATION:	ACCEPT REPORT
Recommended Actions:	<ol style="list-style-type: none"> 1. Discuss the administrative decisions report; and, 2. ACCEPT report.

4. OTHER ITEMS FOR CONSIDERATION

5. STAFF COMMUNICATIONS

6. COMMISSIONER REPORTS/COMMENTS

7. ADJOURNMENT

This Planning Commission meeting is adjourned to March 15, 2022 at 7 p.m.



MINUTES PLANNING COMMISSION MEETING November 16, 2021

The meeting of the El Cajon Planning Commission was called to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE & MOMENT OF SILENCE.

COMMISSIONERS PRESENT: Anthony SOTTILE (Chair)
Darrin MROZ (Vice Chair)
Rebecca POLLACK-RUDE
Elizabeth VALLES

COMMISSIONERS ABSENT: Paul CIRCO

STAFF PRESENT: Anthony SHUTE, Director of Community Development
Spencer HAYES, Associate Planner
Jaime CAMPOS, Associate Civil Engineer
Laura JUSZAK, Administrative Secretary

Chair SOTTILE opened the Planning Commission meeting explaining the rules of conduct.

PUBLIC COMMENT:

There was no public comment.

CONSENT CALENDAR:

Agenda Item:	1
	Planning Commission minutes of October 5, 2021

Motion was made by VALLES, seconded by MROZ, to approve the October 5, 2021 minutes; carried 4-0.

PUBLIC HEARING ITEM:

Agenda Item:	2	
Project Name:	Mollison Market Off-Sale Alcohol	
Request:	Add off-sale alcohol (Type-20) to an existing convenience store	
CEQA Recommendation:	Exempt	
STAFF RECOMMENDATION:	CONTINUANCE TO A DATE UNCERTAIN	
Project Number(s):	Conditional Use Permit (CUP)-2021-0003	
Location:	725 South Mollison Avenue	
Applicant:	ABC Design (Rick Trepte); 619-992-6337	
Project Planner:	Alfonso Camacho; 619-441-1782; acamacho@elcajon.gov	
City Council Hearing Required?	No	
Recommended Actions:	<ol style="list-style-type: none"> 1. Open the public hearing; and 2. Continue the public hearing to a date uncertain. 	

No public comments were received before or during the meeting.

SOTTILE opened the public hearing.

Motion was made by SOTTILE, seconded by VALLES, to close the public hearing; motion carried 4-0.

Motion was made by SOTTILE, seconded by MROZ, to continue Conditional Use Permit (CUP) No. 2021-0003; motion carried 4-0.

Agenda Item:	3	
Project Name:	Quick Trip Inc. Propane Tank	
Request:	Construct a 10-foot tall propane tank	
CEQA Recommendation:	Exempt	
STAFF RECOMMENDATION:	APPROVE	
Project Number(s):	Minor Amendment (MA)-2021-0005	
Location:	596 North Mollison Avenue	
Applicant:	Cabrera and Associates; 619-588-4307	
Project Planner:	Spencer Hayes; 619-441-1656; shayes@elcajon.gov	
City Council Hearing Required?	No	
Recommended Actions:	<ol style="list-style-type: none"> 1. Open the public hearing; and 2. MOVE to adopt the next resolution in order, APPROVING MA-2021-0005. 	

HAYES summarized the staff report through a PowerPoint presentation. Staff recommended that the Planning Commission approve the project.

No public comments were received before or during the meeting.

SOTTILE opened the public hearing. Business owner Eddie HAMANA spoke to Commissioners about the project.

Motion was made by SOTTILE, seconded by MROZ, to close the public hearing; motion carried 4-0.

Motion was made by POLLACK-RUDE, seconded by VALLES, to approve Minor Amendment (MA) No. 2021-0005; motion carried 4-0.

Agenda Item:	4
Project Name:	Zoning Code Update
Request:	Zoning Code Amendment
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	RECOMMEND CITY COUNCIL APPROVAL
Project Number(s):	Zoning Code Amendment No. ZCA-2021-0002
Location:	Citywide
Applicant:	City of El Cajon
Project Planner:	Spencer Hayes; 619-441-1656; shayes@elcajon.gov Alfonso Camacho; 619-441-1782; acamacho@elcajon.gov
City Council Hearing Required?	Yes December 14, 2021
Recommended Actions:	1. Open the public hearing; and 2. MOVE to adopt the next resolution in order, RECOMMENDING City Council approve ZCA-2021-0002.

SHUTE summarized the proposed code amendment in a PowerPoint Presentation.

Commissioners asked various questions and confirmed the proposed amendments were appropriate.

Motion was made by MROZ, seconded by POLLACK-RUDE, to recommend City Council approve ZCA-2021-0002; motion carried 4-0.

Staff brought 2022 Planning Commission calendar forward for review and concurrence by Commissioners.

STAFF COMMUNICATIONS:

ADJOURNMENT:

Motion was made by SOTTILE, seconded by MROZ, to adjourn the meeting of the El Cajon Planning Commission at 7:54 p.m. this 16th day of November 2021 until 7:00 p.m., Tuesday, December 7, 2021; carried 4-0.

Anthony SOTTILE, Chair

ATTEST:

Anthony SHUTE, Secretary



City of El Cajon

Agenda Item:	2
Project Name:	Microenterprise Home Kitchen Operations Performance Standards
Request:	Zoning Code Amendment
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	RECOMMEND CITY COUNCIL APPROVAL
Project Number:	Zoning Code Amendment No. ZCA-2022-0001
Location:	Citywide
Applicant:	City of El Cajon
Project Manager(s):	Michael Viglione; mviglione@elcajon.gov ; 619-441-1773
City Council Hearing Required?	Yes March 22, 2022
Recommended Actions:	<ol style="list-style-type: none"> 1. Conduct the public hearing; and 2. MOVE to adopt the next resolution in order recommending City Council approval of proposed Zoning Code Amendment No. ZCA-2022-0001.

PROJECT DESCRIPTION

On January 25, 2022, City Council directed staff to incorporate Microenterprise Home Kitchen Operations (MEHKO) performance standards into the El Cajon Municipal Code (ECMC). The City’s Zoning Code contains performance standards for residential zones but it does not include specific regulations related to MEHKOs. ECMC section 17.20.020 provides that amendments to the Zoning Code may be initiated by City Council action.

BACKGROUND

Assembly Bills (AB) 626 and 377 enabled the County of San Diego (County) to adopt an ordinance to permit the operation of home based restaurants called MEHKOs throughout the County. Where permitted, MEHKOs may prepare and sell food for on-site dining, take-out, or delivery, subject to basic health and safety standards enforced by the County. The legislation also allows a MEHKO to operate in a single-family or multi-family home, whether the owner or renter occupies the residence. However, a kitchen operator is limited to producing 30 meals per day or 60 meals per week, from earning more than \$50,000 in annual gross income, and from hiring more than one employee, and food must be cooked and served the same day.

On September 15, 2021, the County Board of Supervisors (Board) directed the County Department of Environmental Health and Quality (DEHQ) to engage in a public outreach

program and prepare an ordinance authorizing MEHKOs for Board consideration within 120 days. On January 12, 2022, the County Board voted unanimously to adopt an ordinance allowing MEHKOs as part of a temporary program for a two-year period. The second reading of the ordinance occurred on January 26, 2022 and MEHKOs may begin operating as of February 25, 2022.

The temporary MEHKO ordinance approved by the Board applies to all jurisdictions in the County and includes requirements or operational provisions including food safety certificates, food storage areas, potable water, and ongoing testing to be enforced by DEHQ. A MEHKO is subject to an annual registration and inspection by County DEHQ, but except for requiring a business license, no other permits or approvals from the City of El Cajon would be allowed. Furthermore, A MEHKO is eligible for an alcohol license from Alcoholic Beverage Control (ABC) and if issued could serve alcohol with a meal to the public. However, ABC may not issue a retail license contrary to a valid zoning ordinance pursuant to California Business and Professions Code section 23790 and current zoning standards require on-sale alcohol service at a restaurant to be located in a non-residential zone. Complaints regarding the operation of MEHKOs will be enforced by individual cities, which may choose to utilize existing performance standards or adopt new standards. Violation of a performance standard is considered a nuisance and would be subject to code compliance action.

DISCUSSION

The Public Works and Community Development Departments have concerns regarding MEHKO operations and potential impacts that may affect city infrastructure (sewer and street systems), and residential compatibility (noise, odors, parking and traffic). Although, state law restricts the City's ability to regulate MEHKOs, the staff believes it is important that the Planning Commission is aware of these concerns and how they relate to the proposed ordinance updates.

Staff Concerns

- The Zoning Code contains home occupation standards that place common sense limits on businesses that are appropriate for residential areas (e.g. limited operating hours; no employees other than those who reside on the property; fumes, odors, vibrations, noise, changes to residential character, or similar conflicts with compatibility). The MEHKO exemption creates several conflicts with the City's Home Occupation standards and results in an unfair business advantage for those businesses that have obtained the appropriate permits and made investments into properly zoned commercial areas.
- MEHKO customers would be allowed to get delivery, take-out, or consume the meals on-site, creating a restaurant use in a residential neighborhood. These type of operations could significantly impact adjoining residences by creating parking and traffic issues, with the potential of lines of customers waiting for food.

- Impact to local wastewater as a result of the additional fats, oils, and grease that will be added to the wastewater system as a result of additional food preparation activities within the residence.
- There would be no reporting or other accountability to the City for these operations.

Proposed MEHKO Standards

The City's Zoning Code currently contains performance standards for residential zones, but it does not include specific regulations related to MEHKOs. In order to ensure that performance standards are clear and concise for MEHKOs operating in the City, staff recommends changes to the Zoning Code. The following are summarized standards that will be addressed as nuisances. The complete content of each standard is available in the proposed ordinance attached to this report. MEHKO operations may not:

- Block or create parking congestion on city streets.
- Store greases in such a manner as to be considered a fire hazard or to attract vermin, whether indoors or outdoors.
- Dispose of greases into the sewer system through a residential drain or toilet.
- Cause a visible build-up of greases inside residential ventilation hoods and shafts, on walls, ceilings, rooftops, or other surfaces in a way that may constitute a fire hazard or attract vermin.
- Create nuisance smoke, odors, or noises in common areas or shared gathering areas.
- Operate an outdoor wood-burning oven or bar-b-que in a manner that may constitute a hazard or attract vermin.
- Store refuse in an unsanitary manner or that which attracts vermin.
- Serve alcoholic beverages without a license from the California Department of Alcoholic Beverage Control, including but not limited to violations existing alcohol regulations.

FINDINGS

- A. *The proposed zoning amendment, including any changes proposed in the various land uses to be authorized, is compatible with the objectives, policies, general land uses, and programs specified in the general plan.*

The proposed changes to the Zoning Code further the goals of the General Plan by maintaining the quality of residential neighborhoods. Further, pursuant to Goal 10, the city "shall periodically revise its regulatory codes, ordinances and policies so that

they may reflect current, upgraded standards of development and performance.” The proposed Zoning Code changes will clarify MEHKO performance standards and facilitate their consistent and objective application.

- B. *The proposed zoning amendment is consistent with any applicable specific plan governing development of the subject property.*

The proposed Zoning Code amendment is applicable citywide. No zone changes are proposed as part of this project, and thus the proposed changes do not conflict with specific plans.

- C. *It is in the public necessity and convenience and/or general welfare that the zoning regulations governing the property be changed.*

The proposed Zoning Code amendment is applicable citywide and is not property-specific. Further, the proposed changes provide clarity, consistency, and objective standards for MEHKO to the benefit of both MEHKO operators and residents and thus advances the general welfare of residential neighborhoods within the City.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The proposed Zoning Code Amendment is exempt from the provisions of the California Environmental Quality Act (CEQA) according to the common sense exemption (CEQA Guidelines, section 15061(b)(3)). The common sense exemption applies where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The proposed amendment does not result in any development or changes to the physical environment and does not raise this project to a level of significance that warrants CEQA analysis.

PUBLIC NOTICE & INPUT

Notice of this public hearing was published in the East County Gazette on February 17, 2022 in compliance with Government Code sections 65090, 65091, and 65092, as applicable. Additionally, as a public service, the notice was posted in the kiosk at City Hall and on the City’s website under “Public Hearings/Public Notices.” The notice was also mailed to the two public libraries in the City of El Cajon, located at 201 East Douglas Avenue and 576 Garfield Avenue.

RECOMMENDATION


Staff recommends approval of Zoning Code Amendment No. 2022-0001 to address regulatory changes and to provide clarity in the application of the Zoning Code.

PREPARED BY:



Michael Viglione
SENIOR
PLANNER

REVIEWED BY:



Noah Alvey
DEPUTY
DIRECTOR OF
COMMUNITY
DEVELOPMENT

APPROVED BY:



Anthony Shute
DIRECTOR OF
COMMUNITY
DEVELOPMENT

ATTACHMENTS:

1. Proposed Resolution Recommending City Council Approval of Zoning Code Amendment No. 2022-0001
2. Proposed MEHKO Ordinance Amendment
3. Public Hearing Notice
4. County of San Diego Department of Environmental Health and Quality Food and Housing Division "Microenterprise Home Kitchen Operation (MEHKO) FAQs"

PROPOSED PLANNING COMMISSION RESOLUTION

A RESOLUTION RECOMMENDING CITY COUNCIL APPROVAL OF ZONING CODE AMENDMENT NO. 2022-0001, AN AMENDMENT TO TITLE 1 AND TITLE 17 OF THE EL CAJON MUNICIPAL CODE FOR MICROENTERPRISE HOME KITCHEN OPERATIONS – MEHKO.

WHEREAS, on January 25, 2022, the City Council directed staff to initiate a Zoning Code amendment to incorporate Microenterprise Home Kitchen Operations (MEHKO) performance standards into the Municipal Code; and,

WHEREAS, on February 25, 2022, an ordinance adopted by the County of San Diego Board of Supervisors became effective, thereby allowing MEHKO to operate within the City of El Cajon; and,

WHEREAS, the El Cajon Planning Commission duly advertised and held a public hearing on March 1, 2022, to consider an amendment to the Zoning Code to add MEHKO performance and nuisance standards; and,

WHEREAS, at the public hearing the Planning Commission received evidence through public testimony and comment, in the form of verbal and written communications and reports prepared and presented to the Planning Commission, including (but not limited to) evidence such as the following:

A. The proposed Zoning Code Amendment is exempt from the provisions of the California Environmental Quality Act (CEQA) according to the common sense exemption (CEQA Guidelines, section 15061(b)(3)). The common sense exemption applies where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The proposed amendment does not result in any development or changes to the physical environment and does not raise this project to a level of significance that warrants CEQA analysis. None of the exemption listed under CEQA Guidelines Section 15300.2 exists

B. The proposed changes to the Zoning Code further the goals of the General Plan by maintaining the quality of residential neighborhoods. Further, pursuant to Goal 10, the city “shall periodically revise its regulatory codes, ordinances and policies so that they may reflect current, upgraded standards of development and performance.” The proposed Zoning Code changes will clarify MEHKO performance and nuisance standards and facilitate their consistent and objective application.

C. The proposed zoning code amendment is applicable citywide. No zone changes are proposed as part of this project, and thus the proposed changes do not conflict with specific plans.

D. The proposed Zoning Code amendment is applicable citywide and is not property-specific. Further, the proposed changes provide clarity, consistency, and objective standards for MEHKOs to the benefit of both MEHKO operators and residents and thus advances the general welfare of residential neighborhoods within the City.

WHEREAS, after considering such evidence and facts the Planning Commission did consider Zoning Code Amendment No. 2022-0001 as presented at its meeting; and

WHEREAS, the residential land use tables have been updated to permit MEHKOs in residential zones and reference performance and nuisance standards in Sections 1.16.025 and 17.225.250 of the El Cajon Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the El Cajon Planning Commission as follows:

Section 1. That the foregoing recitals are true and correct, and are findings of fact of the El Cajon Planning Commission in regard to Zoning Code Amendment No. 2022-0001.

Section 2. That based upon said findings of fact, the El Cajon Planning Commission hereby RECOMMENDS City Council APPROVAL of Zoning Code Amendment No. 2022-0001 included as Exhibit A.

{The remainder of this page is intentionally blank}.

PASSED AND ADOPTED by the El Cajon Planning Commission at a regular meeting held March 1, 2022, by the following vote:

Anthony SOTTILE, Chair

ATTEST:

Noah ALVEY, Secretary

ORDINANCE NO. ____

AN ORDINANCE AMENDING CHAPTER 1.16 OF TITLE 1 AND CHAPTERS 17.105 AND 17.140 OF TITLE 17 AND ADDING CHAPTER 17.225.250 OF TITLE 17 OF THE EL CAJON MUNICIPAL CODE REGARDING MICROENTERPRISE HOME KITCHEN OPERATIONS

THE CITY COUNCIL OF THE CITY OF EL CAJON DOES ORDAIN AS FOLLOWS:

Section 1. Section 1.16.010 of Chapter 1.16 of Title 1 of the El Cajon Municipal Code is hereby repealed.

Section 2. A new section 1.16.010 is hereby added to Chapter 1.16 of Title 1 of the El Cajon Municipal Code to read as follows:

1.16.010 Terms defined.

For the purposes of this chapter:

"Authorized personnel" includes all department heads and designees.

"Owner" includes owners of any interest in the property, including but not limited to, owners, lessees, sublessees, mortgagee in possession, licensee, beneficiaries of deeds of trust on the property, and any person in charge and control of the property.

"Microenterprise home kitchen operation" ("MEHKO") is a restricted food service facility as defined in California Health & Safety Code section 113825.

Section 3. A new section 1.16.025 is hereby added to chapter 1.16 of Title 1 of the El Cajon Municipal Code to read as follows:

1.16.025 Nuisance defined – Microenterprise home kitchen operations - MEHKO

A. In order to mitigate concerns related to food safety and potential negative impacts on the neighborhoods where microenterprise home kitchen operations have been permitted in the city by the County of San Diego including, without limitation, adverse traffic or parking; excessive noise, odors, fumes, vibrations, food or grease waste disposal; or the existence of vermin related to such operations, and in addition to any nuisance defined elsewhere in this code or under State laws, it shall be deemed a nuisance for any microenterprise home kitchen operation ("MEHKO") to:

1. Directly, through customers, or permitted delivery services, cause blockage or congestion on city rights-of-way such that city agencies are impeded, including, but not limited to maintenance, solid waste, and street sweeping, or that results in repeated neighbor complaints by multiple neighbors, including for parking congestion.

2. Store greases in such a manner as to be considered a fire hazard or is attractive to vermin, whether indoors or outdoors.
3. Dispose of greases into the municipal sewer system through a residential drain or toilet or otherwise in violation of chapter 13.20 of this code.
4. Cause a visible build-up of greases inside residential ventilation hoods and shafts, on walls, ceilings, rooftops, or other surfaces in a way that may constitute a fire hazard or attract vermin.
5. Create nuisance smoke, odors, or noises in common areas or shared gathering areas including but not limited to violations of chapter 9.44 of this code, such that multiple neighbors file complaints.
6. Operating an outdoor wood-burning oven or bar-b-que in a manner that may constitute a hazard or attract vermin including but not limited to violations of chapter 8.04 of this code, such that multiple neighbors file complaints.
7. Storing of refuse in an unsanitary manner or that which attracts vermin.
8. Serving alcoholic beverages without a license from the California Department of Alcoholic Beverage Control, including but not limited to violations of chapter 17.210 of this code.

B. Nuisances described in this section may be abated according to chapter 1.16, State laws, or both.

Section 4. A new section 17.105.020 is hereby added to Chapter 17.105 of Title 17 of the El Cajon Municipal Code to read as follows:

17.105.020 Definitions.

"Microenterprise home kitchen operation" ("MEHKO") is a restricted food service facility as defined in California Health & Safety Code section 113825.

Section 5. A new section 17.140.210 is hereby added to Chapter 17.140 of Title 17 of the El Cajon Municipal Code to read as follows:

Residential Zones	PRD	RS-40	RS-20	RS-14	RS-9	RS-6	RM-6000	RM-4300	RM-2500	RM-2200	RM-1450	RM-HR	Notes
Nonresidential Uses (subject to density restrictions)													
Microenterprise home kitchen operation (MEHKO)	P	P	P	P	P	P	P	P	P	P	P	P	17

17. Subject to the provisions of section 1.16.025 (nuisance defined – microenterprise home kitchen operations) and Chapter 17.225.250 (microenterprise home kitchen operations - MEHKO)

Section 6. A new section 17.225.250 is hereby added to Chapter 17.225 of Title 17 of the El Cajon Municipal Code to read as follows:

17.225.250 - Microenterprise home kitchen operations - MEHKO

A. The Microenterprise Home Kitchen Operations Ordinance of the county of San Diego, being Chapter 5 of Division 1 of Title 6 of the San Diego County Code of Regulatory Ordinances (sections 61.501 through 61.505) ("County Code Chapter 5"), as adopted by the county of San Diego, is hereby adopted by reference as the regulatory provisions applicable to any microenterprise home kitchen operation ("MEHKO"), permitted by the county of San Diego and operating in the city of El Cajon, to prevent conditions of such facilities, and the mishandling of food prepared, served, sold, or stored in such facilities, from spreading foodborne illnesses, and each and all such regulations, provisions, penalties, conditions and terms of County Code Chapter 5 are referred to, adopted and made a part of this chapter as though fully set out in this chapter, excepting such portions as are added deleted, modified or amended by this chapter. The County Code Chapter is referred to in this chapter as the "Microenterprise Home Kitchen Operations Ordinance," and one copy is on file in the office of the city clerk.

B. Permit – License.

1. No person shall operate a MEHKO in the city without holding a valid operating permit issued by the County of San Diego Department of Environmental Health and Quality ("DEHQ"). Application for a permit shall be made upon a form issued by the DEHQ and shall be accompanied by any fees established.
2. No person shall operate a MEHKO without holding a valid business license as required by chapters 5.04 and 5.08 of this code.

C. No person shall operate a MEHKO in the city so as to create a nuisance as defined in section 1.16.025 of chapter 1.16 of this code.

D. Commercial grade equipment and/or appliances not intended for residential buildings shall require applicable permits for construction and installation from the City.

Section 7. This ordinance shall go into effect thirty (30) days following its passage and adoption.

March 22, 2022 CC Agenda – 1st Reading
April 12, 2022 CC Agenda – 2nd Reading

Ord –Amend ECMC Ch. 1.16, amend Ch. 17.105, 17.140 and add section 17.225.250 Microenterprise Home Kitchen Operations
Amend ECMC Ch. 17.105 – Definitions
Amend ECMC Ch. 17.140 – Residential Zones
Add ECMC Ch. 17.225.250 - Microenterprise Home Kitchen Operations - MEHKO



**NOTICE OF PROPOSED
AMENDMENT TO TITLE 17
MICROENTERPRISE HOME KITCHEN OPERATIONS**

NOTICE IS HEREBY GIVEN that the El Cajon Planning Commission will hold a public hearing at **7:00 p.m., Tuesday, March 1, 2022**, and the El Cajon City Council will hold a public hearing at **3:00 p.m., Tuesday, March 22, 2022**, in the City Council Chambers, 200 Civic Center Way, El Cajon, CA, to consider: **ZONING CODE AMENDMENT NO. 2022-0001**. This is a City Council initiated proposal to amend Title 17 of the El Cajon Municipal Code to amend the Zoning Ordinance to incorporate Microenterprise Home Kitchen Operations (MEHKO) performance standards. This project is exempt from the California Environmental Quality Act (CEQA).

The public is invited to attend and participate in these public hearings. The agenda reports for this project will be available 72 hours prior to the meeting for Planning Commission and City Council at www.elcajon.gov/your-government/city-meetings-with-agendas-and-minutes-all. In an effort to reduce the City's carbon footprint, paper copies will not be provided at the public hearings, but will be available at the Project Assistance Center and City Clerk counters upon request.

If you challenge the matter in court, you may be limited to raising only those issues you or someone else raised at the public hearings described in this notice or in written correspondence delivered to the Commission or Council at, or prior to, the public hearings. The City of El Cajon encourages the participation of disabled individuals in the services, activities, and programs provided by the City. Individuals with disabilities who require reasonable accommodation in order to participate in the public hearing should contact Planning at 619.441.1742. More information about planning and zoning in El Cajon is available at www.elcajon.gov/your-government/departments/community-development/planning-division.

If you have any questions, or wish any additional information, please contact **MICHAEL VIGLIONE** at 619.441.1773 or via email at mviglione@elcajon.gov and reference "Microenterprise Home Kitchen Operations" in the subject line.

NOTICE IS TO BE PUBLISHED February 17, 2022



County of San Diego

DEPARTMENT OF ENVIRONMENTAL HEALTH AND QUALITY

FOOD AND HOUSING DIVISION

P.O. BOX 129261, SAN DIEGO, CA 92112-9261
Phone: (858) 505-6900 | Fax: (858) 999-8920 | www.sdcdehq.org



Microenterprise Home Kitchen Operation (MEHKO) FAQs

General Info

1. What does the new law do?

The new law establishes a "microenterprise home kitchen operation", also referred to as MEHKO, as a new type of retail food facility to be operated by a resident in a private home. The law requires a County to either allow or not allow MEHKOs in their jurisdiction, and the San Diego County Board of Supervisors has authorized a two-year temporary pilot program allowing MEHKOs to operate countywide. The Department of Environmental Health and Quality, Food and Housing Division (DEHQ-FHD) is the local enforcement agency responsible for issuing operating permits to MEHKOs pursuant to California Retail Food Code (CRFC) requirements and ensuring operational compliance.

2. When does the new law go into effect?

The new law was effective January 1, 2019. However, the new law gives the county "full discretion" to authorize the MEHKOs in their jurisdiction. With the recent authorization of MEHKOs within San Diego County, MEHKO operators will be able to submit their application packets to DEHQ-FHD starting on February 25, 2022.

3. What is a Microenterprise Home Kitchen Operation or MEHKO?

A MEHKO is a type of food service, like a mini restaurant, that is operated by a resident in a private home where food is stored, handled, and prepared that may be served to customers. Food must be prepared the day of service and can be eaten onsite or be delivered to the customer by the operator. Food may also be sold through an internet website or a phone-based mobile app belonging to an Internet Food Service Intermediary, but delivery must be by the MEHKOs operator or an employee of the MEHKOs facility. Food products may not be sold to a wholesale or retail facility. Third party delivery apps such as UberEats, Postmates, or GrubHub, etc., cannot be used by a MEHKO unless as provided for in CRFC Section 114367.5.

A MEHKO does not include either of the following:

- A catering operation, as defined in CRFC Section 113739.1.
- A cottage food operation, as defined in CRFC Section 113758.

4. Who is the "local enforcement agency" for MEHKOs in the San Diego region?

The local enforcement agency for retail food facilities, including MEHKOs, in the San Diego region is the County of San Diego Department of Environmental Health and Quality (DEHQ).

5. What is meant by "private home"?

"Private home" means a dwelling, including an apartment or other leased space, where individuals reside. The MEHKO must be conducted within the primary residence. A MEHKO owner cannot have more than one primary residence, and second homes, vacation homes, or motor homes DO NOT qualify as a MEHKO.

6. If a person is renting a private residence/apartment or lives in a Homeowner's Association (HOA), can they still operate a MEHKO?

A person must check their lease agreement to see if there are any restrictions to operating a home-based business out of the residence/apartment. If you have an HOA, it is advised that you make sure that a MEHKO is allowed by your HOA before applying for a MEHKO health permit.

7. What is the difference between a MEHKO and a Cottage Food Operation (CFO)?

A CFO is restricted to preparing and selling only prepackaged, properly labeled, non-potentially hazardous foods that have been approved by the California Department of Public Health (CDPH) (<https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/FDB/FoodSafetyProgram/CottageFood/ApprovedCottageFoodsList.pdf>), which may be sold directly or indirectly to the consumer. CFOs may not allow on-site food consumption. A MEHKO is able to prepare and serve potentially hazardous foods and are able to provide onsite dining, pick-up, or delivery options to their customers.

8. Can a person operate both a CFO and a MEHKO in their residence?

No, the law does not allow a CFO and a MEHKO in the same residence. The definition of a MEHKO does not include a CFO as provided for in CRFC Section 113825(b).

9. Can a person operate multiple CFOs or multiple MEHKOs in their residence?

No. A cottage food operator is an individual who operates a cottage food operation in his or her private home and is the owner (CRFC Section 113758). A MEHKO is a food facility that is operated by a resident in a private home where food is stored, handled and prepared (CRFC Section 113825). Both a CFO and MEHKO have limitations for the gross dollar amount allowed, number of employees, type of operation, allowed foods, etc. in a single residence. The law does not allow limits to be aggregated by multiple operations in the same residence.

10. Are multiple people living in the same residence allowed to each operate a CFO or MEHKO in that residence?

No. See Questions 8 and 9 above. There can only be one home kitchen operation (CFO or MEHKO) per residence.

11. What constitutes a meal?

While a meal is not defined in the California Retail Food Code, it should be sufficient in quantity to constitute a main course. This guideline is consistent with definition of a meal established by Alcohol Beverage Control (ABC) as part of their permitting process. Baked goods, condiments, sauces, or beverages are not considered a full meal.

Application Process

12. Is a permit required to operate a MEHKO?

Yes, a health permit is required from the County of San Diego Department of Environmental Health and Quality (DEHQ), Food and Housing Division, prior to operating.

13. How does a person who wants to operate a MEHKO obtain a permit from DEHQ?

In order to obtain a health permit, a person (the operator) must complete a permit application package that includes a health permit application and "Standard Operating Procedures" form along with the proposed menu, submit their Food Safety Manager Certificate, and pay a permit fee. Once the application and procedures are reviewed and approved by DEHQ, an initial inspection will be scheduled and conducted at the private residence to verify compliance with state law. Once compliance is verified, the permit will be issued. Application packets can be picked up at the Department of Environmental Health and Quality Office, located at 5500 Overland Ave, Suite 170, San Diego, CA, 92123, or online at www.sdcdehq.org.

14. How long does the application process take for a MEHKO?

The application process is determined by the level of detail and completeness of the application package. The standard application process for MEHKOs is up to 20 calendar days if the application package is complete and the level of detail in the operational procedures is included to demonstrate compliance with the law. If the application must be sent back for revisions an additional 10 calendar days for review may be added.

15. Is approval from the FHD Plan Check Unit required prior to obtaining a MEHKO permit?

Plan check approval is not required prior to obtaining a MEHKO permit. However, if any remodel work is to be done at the residence to support the MEHKO, operators must contact their local Building Department to determine what, if any, approvals will be needed prior to starting construction.

16. What fees are associated with operating a MEHKO?

In order to operate a MEHKO, the initial health permit fee will need to be paid at the time of application, and then the operator will be responsible for paying their annual permit fee in each subsequent year. Additional fees will be applied for any justified complaint response as well as for reinspections that are needed to ensure compliance with the CRFC. For a list of current fees, please refer to the current fee schedule found at www.sdcdehq.org.

17. If an operator moves to a new residence, do they need to go through the application process again?

Yes, DEHQ permits are non-transferable. If an operator moves to a new residence, they must go through the application process again.

18. How does a customer determine if a MEHKO has an approved permit?

A MEHKO is required to display their permit, or a legible copy, during hours of operation. Customers can also visit www.SDFoodInfo.org to determine if a MEHKO has a valid permit.

Operational Requirements

19. Does a person need any special training or certification to operate a MEHKO?

The operator of the MEHKO must successfully pass an approved and accredited food safety manager course prior to submitting an application, and any individual, other than the operator, who is involved with the preparation, storage, or service of food in a MEHKO must also obtain a food handler card from one of the schools approved by DEHQ within 10 days of the start of their employment. Proof of food safety certification and foodhandler training must be available on site. For a list of approved food safety manager and food handler courses, visit our website at www.sdcountyfoodhandlers.org.

20. Can a MEHKO have employees?

A MEHKO can have one full-time equivalent employee who is an individual employed by the MEHKO. This does not include household family members.

21. Does all of the food I use for my MEHKO need to be stored within my home?

MEHKOs are able to store food items in areas that are not part of the internal habitable space (including garages, outdoor sheds, workshops etc.) if the food is stored inside a refrigerator or freezer with a properly closing door/lid.

22. Are kids and pets allowed to be in a MEHKO?

Yes, the law exempts a MEHKO from certain requirements of the CRFC. However, MEHKO facilities are required to keep all children and animals outside of the kitchen and dining areas during food service and preparation.

23. Are there any meal or sales limitations for MEHKOs?

Yes, food preparation is limited to 30 meals per day or 60 individual meals per week and gross annual sales cannot exceed \$50,000 as adjusted annually according to the California Consumer Price Index. Records of all sales must be kept so that compliance with this limitation can be verified. The law also allows for DEHQ to limit the number of individual meals prepared if the physical space available for food preparation, food storage, and equipment storage is not adequate to support the number of meals being prepared.

24. Are there any restrictions to the type of food a MEHKO can serve?

A MEHKO can prepare and sell food and beverages that have been approved by the local enforcement agency for same day on-site consumption or delivery **with the exception of** 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 (HACCP) Plan such as:
 - 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 method
 - Preparing food by another method that is determined by the lead local agency to require a HACCP plan
- Involve the manufacturing of ice cream without a license from California Department of Food and Agriculture
- Contains alcohol without the appropriate liquor license from ABC

25. Can I keep leftovers to serve the next day, or prepare foods, including condiments, sauces, or beverages in advance?

Per the CRFC requirements, all food and beverages cannot be served the next day as part of the MEHKO operation. MEHKOs must prepare and serve all food and beverages on the same day and any leftovers must be properly disposed of at the end of the day.

26. Can I package food or beverages at my MEHKO?

Yes, a MEHKO may portion food into containers for same-day pick up or delivery service as long as it remains part of a meal. However, MEHKOs cannot use reduced-oxygen packaging (such as vacuum packing) or seal their foods in cans, bottles, or jars.

27. Can alcoholic beverages be sold from a MEHKO?

MEHKOs must have a valid license from the California Department of Alcoholic Beverage Control (ABC) in order to sell, serve, provide, or allow alcohol to be consumed on-site at the MEHKO. This includes allowing patrons to bring their own alcohol. Contact the ABC for more information: www.abc.ca.gov.

28. Can homegrown fruits and vegetables be used in a MEHKO?

Yes, however care should be taken to ensure all 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.

29. Can a MEHKO add in cannabis, CBD, or Kava to the products they sell as part of their operation?

Current restrictions imposed by the California Department of Public Health (CDPH) and the FDA prohibit a food facility from adding these ingredients into any food products that are offered to the public for consumption.

30. Can a MEHKO operate as a caterer?

Per the CRFC requirements, a MEHKO is prohibited from operating as a caterer or advertising any catering options as part of their permitted operation. Only permanent food facilities approved for operation, such as a restaurant, banquet facility, or other approved commercial kitchen, or operators who have obtained a Catering permit at an approved commercial kitchen, may operate as a caterer.

31. Can a MEHKO support a mobile food facility or act as a commissary for a food truck or temporary food facility ?

Per the CRFC requirements, MEHKOs may not sell to, operate as, or act as a commissary for a mobile food facility, such as a food truck, food cart, or a temporary food facility.

32. Can an operator of a MEHKO sell or give away food products at temporary events or at Certified Farmer's Markets?

An operator of a MEHKO cannot sell food products at a temporary event or a Certified Farmer's Market. A MEHKO can only conduct food service directly to the public from the residential home or sold through an internet website or a phone based mobile app belonging to an Internet Food Service Intermediary. Internet Food Service Intermediaries must be registered with the California Department of Public Health.

33. Can an operator of a MEHKO donate any leftover food?

An operator of a MEHKO may donate food to a food bank or to any other nonprofit charitable organization as long as the food has been handled in compliance with food safety requirements. For more information on food donations, contact the DEHQ-FHD information specialist at (858) 505-6900, or one of the two San Diego Based Food Banks, Feeding San Diego at (858) 452-3663, or the San Diego Food Bank at (858) 527-1419.

34. Where can I advertise my MEHKO business?

A MEHKO may advertise their business through an internet food service intermediary or other online platform such as social media, as well as print media. The MEHKO must clearly identify San Diego County Department of Environmental Health and Quality, Food and Housing Division as the permit issuer, the permit number, and the following statement of "Made in a Home Kitchen" in a conspicuous font and location within the advertisement. A MEHKO is prohibited from posting signage to advertise the business in front of the residence.

Inspection Process

35. How often will a MEHKO be inspected?

All MEHKOs will receive one annual routine inspection. The first inspection will occur before a permit is issued to ensure compliance with the law.

36. Can a MEHKO be inspected more frequently?

State law prohibits conducting routine inspections of MEHKOs more than once a year. Additional inspections may be required in response to a complaint, if it is suspected that adulterated or otherwise unsafe food has been produced or served by the MEHKO, or if the MEHKO has violated CRFC requirements.

37. What areas of a private residence will be permitted and inspected as part of a MEHKO?

The areas of a private residence that will be permitted and inspected as part of a MEHKO includes the kitchen, onsite customer eating area, food and equipment storage areas, bathroom (toilet room), janitorial or cleaning areas, and trash storage areas. Any utensils and equipment used in the MEHKO will also be inspected.

38. What records are required to be maintained for review by the local enforcement agency?

An operator of a MEHKO must maintain the following documents onsite for review during an inspection:

- Written standard operating procedures that include a menu and hours of operation
- A valid permit issued by DEHQ, or a legible copy of the valid permit, must be displayed onsite at all times when the MEHKO is in operation
- A copy of a valid driver's license of the person delivering food on behalf of the MEHKO
- A copy of the most recent DEHQ inspection report
- Records of all annual receipts from the sales of food

39. Why isn't a letter grade posted at a MEHKO like it is at a permanent food facility or a mobile food facility?

The law exempts a MEHKO from any local grading system. Their permit to operate must be retained on site, and on display, during hours of operation. However, just like permanent food facilities and mobile food facilities, inspection report data and violation information relating to any inspections conducted at a permitted MEHKO can be found at www.SDFoodInfo.org.

Equipment Requirements

40. Is commercial grade equipment required in a MEHKO?

No, commercial equipment/appliances are not required as long as the equipment/appliances used in a MEHKO are kept clean, stored in a sanitary manner, and are in good working order.

41. Can a MEHKO use an open-air barbecue or an outdoor wood-burning oven?

Yes, a MEHKO may use an open-air barbecue or an outdoor wood-burning oven as long as the barbecue or wood-burning oven is:

- Operated on the same premises and is within reasonable proximity to the MEHKO
- Does not have access to by the public
- Is not in a location that constitutes a fire hazard
- Meets the requirements of CRFC Section 114143

42. Are restrooms required to be available for MEHKO customers?

Yes, clean toilet facilities, in good condition, and properly stocked with warm water, dispensable soap, and single-use paper towels shall be available for the MEHKO operator, food handlers, and any employees at all times. If the MEHKO allows customers to consume food or beverages on site, the MEHKO must provide a restroom for those customers to use.

Zoning

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

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 of San Diego Department of Planning & Development Services, Code Enforcement Program.

44. Are there any special requirements regarding a private residential water well?

An approved source of potable water is required for all home kitchen operations. If the water will be provided by a regulated water district or small water system where water quality analysis is performed on a routine basis to ensure the water supply meets minimum bacterial and chemical standards, no further action is necessary. If the water will be provided by a private well, initial and annual testing will be required. For initial applications, a full panel of testing (bacteria, metals, nitrates) results will need to be submitted as part of the MEHKO application. At the time of an annual permit renewal, only bacteriological testing results will need to be submitted.

If testing is needed, requirements and laboratory options can be found at:

<https://www.sandiegocounty.gov/content/dam/sdc/deh/fhd/food/pdf/homekitchenpotablewater.pdf>

A list of approved water sample providers can be found at:

<https://www.sandiegocounty.gov/content/dam/sdc/deh/lwqd/Water%20Sampling%20Provider%20List.pdf>

45. Are there special requirements for disposing of fats, oils or grease that are produced in a MEHKO?

Fats, oils and grease (sometimes known as FOG) are produced when cooking foods that contain fat, such as meat or dairy products, or are prepared using fat (for baking, sautéing, marinating, frying, etc.). They can cause blockages of residential and community plumbing and sewers and can result in sewage backups and overflows both inside and outside of residences. Please do not dispose of fats, oils and grease down the drain. For more information about how to properly dispose of fats, oils and grease, please contact your sewer agency or local city code enforcement for any additional restrictions on the disposal of fats, oils or grease.

46. Are grease traps required for MEHKOs?

State law (California Retail Food Code) prohibits requiring MEHKOs to install grease traps. Please see Question 45 above for proper disposal of fats, oils and grease.

For additional information, please visit
the Department of Environmental Health and Quality's webpage at: <http://www.sdcdehq.org>

**If you have any questions that have not been answered in these FAQs,
or if additional clarification is needed, please contact the DEHQ-FHD Information
Specialist at (858) 505-6900 or by email at FHDUTYEH@sdcounty.ca.gov.**



Agenda Item:	3
Project Name:	Administrative Determinations Report
STAFF RECOMMENDATION:	ACCEPT REPORT
Recommended Actions:	<ol style="list-style-type: none"> 1. Discuss the administrative determinations report; and, 2. ACCEPT report.

DESCRIPTION

The Planning Division provides a report to the Planning Commission describing the administrative determinations made by its interpretation and administration of the Zoning Code as required by Zoning Code section 17.10.030. The last report was provided to the Planning Commission on January 21, 2020. This report will include a brief summary of all Substantial Conformance Review (SCR) and Minor Amendment (MA) determinations within the intervening period. This report is intended to provide transparency and allow for the Planning Commission to consider the suitability of the guidelines that staff uses in evaluating SCR and MA applications on an ongoing basis.

BACKGROUND

Zoning Code chapter 17.10 provides the framework for the administration, interpretation, and enforcement of the Zoning Code. Furthermore, it requires a summary of administrative determinations including Director’s Decisions, SCRs and MAs to be forwarded to the Planning Commission.

Typically, entitlement requests are prepared at a conceptual level of detail and do not represent a level of specificity sufficient for construction. Construction drawings are finalized during review of building permit applications, and as plans are finalized, changes are likely to occur. These changes are usually very minor and substantially conform to the entitlement approval. Also, there are occasional requests to make minor, but substantive changes to entitlement plans that do not warrant public review. Most often this circumstance occurs with long-established, completed projects that need reinvestment due to market or regulatory changes.

Director Decisions

In administering, interpreting, and enforcing the Zoning Code, the director shall consider legal requirements, as well as the minimum requirements necessary for the promotion of the public health, safety, comfort, convenience, and the general welfare of the city. Upon request, the director shall document his or her determination in writing.

Substantial Conformance Review (SCR)

A SCR addresses minor, non-substantive changes that refine but do not meaningfully alter a project. Proposed changes must be consistent with the project approvals and conditions and within the scope of the environmental clearance. Examples might include minor changes to building elevations, such as window placement; re-locating small accessory buildings, such as trash enclosures; changing landscape areas, such as adding a parking lot landscape island; and similar project refinements.

Minor Amendment (MA)

A MA is available for minor changes to approved projects. Project changes must be compatible with the original approval, project character, and not create new effects. Examples include small increases in building area, up to 10 percent or 10,000 square feet, whichever is less; increases in building height, up to 10 percent but not exceeding height limits; and re-location of project features, provided no new significant effects result.


ADMINISTRATIVE DETERMINATIONS

The attached table shows the project name, the governing planning entitlement, the administrative determination date, brief project summary, and the review type. Attached to this report are excerpts of the applicable Zoning Code Sections and the guidelines. The administrative determination letters are available upon request.

RECOMMENDATION

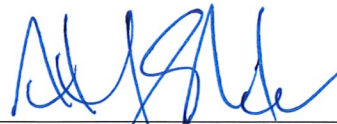
Staff recommends that the Planning Commission accept the report.

PREPARED BY:



Noah Alvey
DEPUTY DIRECTOR OF
COMMUNITY
DEVELOPMENT

APPROVED BY:



Anthony Shute
DIRECTOR OF
COMMUNITY
DEVELOPMENT

ATTACHMENTS

1. Summary of Decisions
2. Applicable Zoning Code Sections
 - a. Administration, Interpretation, and Enforcement - 17.10.010 through 17.10.090
 - b. Minor Amendments - 17.57.010 through 17.57.060
 - c. Substantial Conformance Review - 17.63.010 through 17.63.060
3. Minor Amendment Policy
4. Substantial Conformance Review Policy

Project Name	Location	Governing Entitlement	Decision Date	Project Summary	Type
January to June 2020					
T-Mobile Wireless Communication Facility Modification	1563 Hill Street	CUP No. 1581	January 6, 2020	Three additional antennas at the existing T-Mobile wireless communication facility	SCR
Solar Carport	1150 Broadway	CUP No. 1126	March 2, 2020	Proposed solar carport accessory structure	SCR
Five Below façade modifications	415 Parkway Plaza	SP No. 19	June 18 , 2020	Façade remodel for Five Below in Parkway Plaza Mall	SCR
Wendy's restaurant façade modifications	871 Broadway	CUP No. 700	June 19 , 2020	Modernize façades	SCR
T-Mobile Wireless Communication Facility Modification	281 North 2 nd Street	CUP No. 1919	January 13, 2020	Install antenna at existing wireless communication facility	MA
New IT storage mezzanine at school district	189 Roanoke Road	CUP No. 34	January 7, 2020	Convert school district maintenance workshop into IT offices with new 700 square foot mezzanine	SCR
July to December 2020					
Our Lady of Grace sport field shade structure	2766 Navajo Road	CUP No. 18	August 6, 2020	900 square foot shade structure near sports field	SCR
iNewton Day Care modifications	445 West Washington Avenue	CUP No. 2254	September 9, 2020	Less than 10% increase in building height, modification to building layout, and parking reconfiguration	SCR
T-Mobile Antenna addition	1870 Cordell Court	SDP No. 1409	October 9, 2020	Six additional wireless communication antennas and supporting equipment	MA
Lexington ECJ Housing LP improvements	250 East Lexington Avenue	SP No. 457	November 6, 2020	Building upgrades and site improvements for Lexington Senior Apartments	MA
Religious Facility building upgrades	950 North Second Street	SP No. 76	December 2, 2020	Modification to existing building (height increase)	MA
El Cajon Mobile Home Park	187 Ballard Street	CUP No. 51	December 7, 2020	Detached accessory structures to the existing El Cajon Mobile Home Park	SCR

Project Name	Location	Governing Entitlement	Decision Date	Project Summary	Type
January to June 2021					
Drive through building modifications	270 Fletcher Parkway	SP No. 137	February 3, 2021	Modification of existing drive through including building addition and exterior building modifications	MA
AT&T wireless facility modifications	2160 Fletcher Parkway	CUP No. 2141	February 18, 2021	Six replacement antennas and addition of supporting equipment	SCR
T-Mobile wireless facility modifications	1355 Hill Street	CUP No. 1581	January 15, 2021	Equipment upgrades, replacing three panel antennas and associated equipment	SCR
T-Mobile wireless facility modifications	415 Fletcher Parkway	SDP No. 1517	February 26, 2021	Equipment upgrades, adding four panel antennas and associated equipment	SCR
Funky Fries Patio Cover	101 W Washington Avenue	CUP No. 2129	March 31, 2021	Patio cover for outdoor dining	SCR
Fletcher Parkway equipment upgrades	450 Fletcher Parkway	SDP No. 1400	May 18, 2021	Equipment upgrades; four replacement antennas, relocation of two antennas, and installation of supporting equipment	SCR
July to December 2021					
Sunbelt Rentals upgrades	1717 East Main Street	SDP No. 307	August 26, 2021	Proposed interior tenant improvements and enclosure of covered patio	MA
Self-Storage façade remodel	575 Fletcher Parkway	SP No. 19 and CUP-2019-0010	August 31, 2021	Minor alteration to exterior storefront	MA
Anastasia Court Project development – 26 residences	Anastasia Court	PRD No. 65R	September 14, 2021	Minor modification to development including; slight garage re-positioning and height increase for four units, and relocation of four visitor spaces	MA
Crown Castle Wireless facility upgrades	346 Front Street	CUP No. 1819	September 21, 2021	Replacement of nine antennas and associated equipment	SCR
Façade modifications	470 North Mollison Ave	CUP No. 2020-0008	October 21, 2021	Exterior modifications including a new exterior emergency exit staircase and parapet to screen mechanical equipment	SCR

Project Name	Location	Governing Entitlement	Decision Date	Project Summary	Type
Tyke's Liquor façade modifications	807 Jamacha Road	CUP No. 2222	October 21, 2021	Exterior building wall modification for Tyke's Liquor	SCR
Village Green Apartment development	743 South Magnolia Avenue	SP No. 223	November 18, 2021	Construction of a recreation center with gym facilities, clubhouse space, manager's office and storage room	MA
Foothills Christian High School community facility	2321 Dryden Road	CUP No. 1907	November 22, 2021	Equipment upgrades and refreshed screening at an existing wireless communication facility	SCR
T-Mobile wireless facility modifications	1709 Broadway	CUP No. 1973	November 23, 2021	Equipment upgrades, three new antennas, removal and replacement of six antennas and upgrade to associated equipment	MA
Renette Park and Recreation Center antenna proposal	935 South Emerald Avenue	SP No. 532	December 6, 2021	New antennas on existing park light pole and equipment enclosure	SCR
Alnoor Adult Day Health Care	905 West Main Street	MUP No. 11	December 9, 2021	Switch from non-medical to medical Adult Day Health Care (ADHC) operation and increased occupancy	MA
January to June 2022					
Building façade modifications	123 Fletcher Parkway	SP No. 19	February 1, 2022	Exterior modification including new glazing, cement siding, awning and entrance features for proposed grocery use	SCR

Applicable Zoning Code Sections

2.a - Administration, Interpretation, and Enforcement – 17.10.010 through 17.10.090

17.10.010 Administration, interpretation, and enforcement.

The director of community development (director), or his or her designee, shall administer, interpret, and enforce the provisions of this title, including any ambiguities or omissions herein. In interpreting this title, the director shall gather and review all pertinent facts and make a determination based upon those facts. The director may consult standard references, such as the North American Industrial Classification System (NAICS), as such documents may be amended from time to time, when administering and interpreting this title. (Ord. 5081 § 3, 2019.)

17.10.020 Director's determination.

In administering, interpreting, and enforcing this title, the director shall consider legal requirements, as well as the minimum requirements necessary for the promotion of the public health, safety, comfort, convenience and the general welfare of the city. Upon request, the director shall document his or her determination in writing. (Ord. 4950 § 3, 2010)

17.10.030 Report to planning commission.

The director shall make a report to the planning commission describing the administrative determinations made pursuant to Section 17.10.020 above and Chapters 17.57 and 17.63. The report shall be submitted as a discussion item in July and January, for the preceding six (6) month period. No such report shall be required, if the director has not issued a director's determination, substantial conformance review or minor amendment in the six (6) month period preceding the required reporting dates. (Ord. 4984 § 8, 2013)

17.10.040 Appeal of director's determination.

Any decision or determination made by the director may be appealed to the planning commission in accordance with the provisions of Chapter 17.30 of this title. (Ord. 4950 § 3, 2010)

17.10.050 Certificates of occupancy.

To assure compliance with the provisions of this title, a certificate of occupancy shall be obtained from the building and fire safety division before:

- A. Any new building is initially occupied or used;
- B. Any change of type or class of use is made; or
- C. A change of use of any unimproved premises is made. (Ord. 4950 § 3, 2010)

17.10.060 Conflicts.

It is not intended by this title to interfere with or abrogate or annul any easement, covenant or other agreement between parties. However, when this title imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants or agreements, the provisions of this title shall govern.

Furthermore, all departments, officials or public employees vested with the duty or authority to issue permits or licenses where required by law shall conform to the provisions of this title. No such license or

permit for uses, buildings or purposes where the same would be in conflict with the provisions of this title shall be issued. Any such license or permit, if issued in conflict with the provisions of this title, shall be null and void. (Ord. 4950 § 3, 2010)

17.10.070 Penalties.

- A. Any person, firm, or corporation violating any of the provisions of this title may be charged with either an infraction or a misdemeanor, and shall be subject to the provisions of the general penalty clause as set forth in Section 1.24.010 of this code.
- B. Each person, firm or corporation found guilty of a violation shall be deemed guilty of a separate offense for every day during any portion of which any violation of any provision of this title is committed, continued or permitted by such person, firm or corporation, and shall be punishable as provided above in Section 17.10.070(A). Any use, occupation or building or structure maintained contrary to the provisions of this title shall constitute a public nuisance.
- C. In addition or in lieu of prosecuting a violation as an infraction or misdemeanor, the director is authorized to issue an administrative citation in accordance with Chapter 1.14, or initiate abatement proceedings pursuant to Chapter 15.16, and/or may commence an administrative proceeding under Chapter 15.18 to cause the assessment of a civil penalty pursuant to Section 1.24.020. (Ord. 4950 § 3, 2010)

17.10.080 Judicial review.

Any proceeding to seek judicial review in order to dispute, annul, contest or otherwise attack a decision of the city in any zoning or land use matter must be brought within 60 days of the date on which the disputed decision becomes final, unless otherwise provided for by statute. (Ord. 4950 § 3, 2010)

17.10.090 Compliance with CEQA time limits.

Whenever the timing and processing requirements of the California Environmental Quality Act (CEQA) require a longer time period for the processing of land use or development projects than the time periods stated in this title, the longer time periods and processing requirements required by CEQA shall prevail. (Ord. 4950 § 3, 2010)

2.b. Minor Amendments – 17.57.010 through 17.57.060

17.57.010 Intent and purpose.

The intent and purpose of the minor amendment review process is to accommodate minor changes exceeding a level of refinement but less than that which would benefit from public review or a full administrative review process to provide reasonable flexibility in responding to changing markets and regulations. (Ord. 4984 § 19, 2013)

17.57.020 Definition.

A minor amendment means an administrative process to accommodate minor physical changes to an existing project, provided that proposed changes do not raise significant new issues or create significant effects, and, cumulatively, the changes would not result in a substantial alteration and are offset by substantial, alternative benefits. These changes must be consistent with the intent and character of the approved project entitlement plan. (Ord. 4984 § 19, 2013)

17.57.025 Thresholds, guidelines and measuring criteria.

- A. An increase in floor area up to 10 percent of the entitled building area or 10,000 square feet, whichever is less, may be approved.
- B. A reduction in the minimum required parking up to 10 percent may be approved, provided that an equivalent amount of parking is available along the project's frontage of a public street, and if the reduction is offset by a substantial alternative benefit in project quality.
- C. A reduction in required landscape area up to 10 percent may be approved, provided remaining landscape areas are substantially enhanced and water use reduction measures implemented, if the reduction is offset by a substantial, alternative benefit in project quality.
- D. No increase nor decrease in housing density may be approved.
- E. Other changes may be approved if minor in scope as determined by the director.
- F. The director of community development shall prepare guidelines and measuring criteria to provide the framework within which to establish applicability, eligibility and decision-making guidance in administering the minor amendment process. The director shall forward the guidelines and measuring criteria to the Planning Commission as information and input upon initial preparation. Any changes thereafter shall be presented and reviewed pursuant to Section 17.10.030. (Ord. 5018 § 11, 2015)

17.57.030 Authority to apply.

An application for a minor amendment may be filed with the secretary of the planning commission by the property owner for which the development entitlement is applicable, or the property owner's agent. (Ord. 4984 § 19, 2013)

17.57.040 Authority to approve.

Minor Amendments may be approved, conditionally approved, or denied by the director of community development. The director may, at his or her discretion, decide that the minor amendment warrants a formal amendment of the governing entitlement. (Ord. 4984 § 19, 2013)

17.57.050 Notice of decision.

The applicant for a minor amendment shall be notified in writing of the decision of the director to approve, conditionally approve, or deny the permit. In the event that the director decides that a formal amendment of the governing entitlement is warranted, the applicant shall also be notified in writing. (Ord. 4984 § 19, 2013)

17.57.060 Appeals.

The action of the director in approving, conditionally approving, or denying a minor amendment may be appealed pursuant to the requirements listed in Chapter 17.30 of this title. (Ord. 4984 § 19, 2013)

2.c. Substantial Conformance Review – 17.63.010 through 17.63.060

17.63.010 Intent and purpose.

The intent and purpose of substantial conformance review is to allow for the refinement of development projects, but does not result in any meaningful alteration of the project based upon the whole record. (Ord. 4984 § 22, 2013)

17.63.020 Definition.

Substantial conformance review means an administrative process for refining an existing project, provided that such physical refinements are consistent with and do not materially alter the intent, character, development, intensity, density or increase the environmental effects of the approved project entitlement plan. (Ord. 4984 § 22, 2013)

17.63.025 Guidelines and measuring criteria.

The director of community development shall prepare guidelines and measuring criteria to provide the framework within which to establish applicability, eligibility and decision-making guidance in administering the substantial conformance review process. The director shall forward the guidelines and measuring criteria to the Planning Commission as information and input upon initial preparation. Any changes thereafter shall be presented and reviewed pursuant to Section 17.10.030. (Ord. 4984 § 22, 2013)

17.63.030 Authority to apply.

An application for a substantial conformance review may be filed with the secretary of the planning commission by the property owner for which the development entitlement is applicable, or the property owner's agent. (Ord. 4984 § 22, 2013)

17.63.040 Authority to approve.

Substantial conformance reviews may be approved or denied by the director of community development. The director may, at his or her discretion, decide that a substantial conformance review warrants a minor amendment or formal amendment of the governing entitlement. (Ord. 4984 § 22, 2013)

17.63.050 Notice of decision.

The applicant for a substantial conformance review shall be notified in writing of the decision of the director to approve or deny the substantial conformance review. In the event that the director decides that a minor amendment or formal amendment of the governing entitlement is warranted, the applicant shall also be notified in writing. (Ord. 4984 § 22, 2013)

17.63.060 Appeals.

The action of the director in approving or denying a substantial conformance review may be appealed pursuant to the requirements listed in Chapter 17.30 of this title. (Ord. 4984 § 22, 2013)

**CITY OF EL CAJON
PLANNING DIVISION POLICY**

Name of policy: Minor Amendment

Policy No. A-17

Adopted by City Council Ordinance No. 4984

Effective Date: February 7, 2013

No. of Pages: 3

Related Policies: A-18

Issue Defined:

A Minor Amendment is intended to accommodate minor changes to a project necessary to keep it current with ever-changing markets and regulations, using a streamlined process. Much of El Cajon was developed decades ago. Additionally, changes may occur to newer entitled projects that were not foreseen by the applicant due to the needs of tenants. The Minor Amendment process was created to accommodate these changes and streamline the review process to encourage investment in the City. This process allows for small expansions and flexibility through reducing certain development standards if alternative benefits are provided. The following guidelines and measuring criteria address these refinements and modifications in a manner to provide for reasonable change and within the governing framework of a project's entitlement.

Objective:

Accommodate minor changes to projects through a streamlined process to encourage investment in the City.

Benefits:

These systems will be beneficial to a project applicant by allowing a project to adapt to changes with the minimum necessary review. It defines what may be considered minor to assure consistency with the original public review process and governing entitlement. It will reduce lengthy entitlement preparation, processing and cost. It will benefit staff by creating a mechanism to review and approve minor changes. Finally, it will benefit the City by encouraging new and continuing investment.

Policy:

Minor Amendment (MA) is to determine if proposed physical changes, including expansions or revisions that cannot be found in substantial conformance, yet are not significant enough to warrant public review of an existing development project, can be approved within the framework of the applicable governing entitlement.

The following guidelines, measuring criteria and procedure shall be used in making such determinations:

Procedure:

1. The applicant shall file the uniform discretionary permit application and supplemental requirements with the secretary of the Planning Commission.

Minor Amendment Policy

2. The application shall be referred for comment to the appropriate internal City departments and outside agencies, if applicable.
3. No Minor Amendment application shall be approved on a property for which approval of the entitlement being modified was preceded by a public hearing, unless a 10-day public notice is first provided by mail to all property owners within a 300-foot radius of the subject site. The notice shall include a brief description of the request and its relation to relative governing entitlements. An adverse response received within 10 days of the date of mailing will elevate the application to review by the Planning Commission.
4. The following are not available to the provisions of the Minor Amendment process:
 - a. Minor Conditional Use Permits for detached accessory structures greater than 800 sq. ft. and/ or with bathroom facilities in any R zone
 - b. Conditional Use Permits for residential and non-residential uses in any R zone
 - c. Existing developed PRDs and PUDs
5. Planning staff shall use the following measuring criteria when reviewing the proposed request:
 - a. CEQA review
 - i. Proposed modification(s), change(s) or variation(s) must be within the scope of the CEQA document, or
 - ii. Changes to existing development must be exempt within the CEQA Guidelines Section 15300 et seq.
 - b. Site Design
 - i. Building(s) and Structure(s)
 1. An increase in floor area not to exceed 10% or 10,000 square feet, whichever is less
 2. Addition of occupancy-rated accessory structures
 3. Demolition, reconstruction and/ or remodeling of existing structures within the parameters of the minor amendment measuring criteria
 - ii. Parking and On-site Circulation:
 1. Expansion of parking area(s) of 3,000 square feet
 2. Reduction of parking area(s) of 3,000 square feet
 3. A maximum 10% reduction in required minimum parking, provided that an equivalent amount of parking is available along the project's frontage of a public street, and if the reduction is offset by a substantial alternative benefit in project quality
 - iii. Landscaping:
 1. Must be consistent with Zoning Code Chapter 17.195
 2. A maximum 10% reduction in landscape area, provided remaining landscape areas are substantially enhanced and water use reduction measures implemented; high-quality, low-scale screen walls may be also required to off-set the reduction in landscape area
 - c. Architecture
 - i. Physical changes to building features or structural alterations while maintaining the project's approved architectural concept
 - ii. For Site Development Plans only: A height increase may be considered if it does not exceed the maximum height limit of the underlying zone, is within 10% of the

approved building height and maintains the basic architectural concept of the project; a height decrease may be considered as well

- iii. For other discretionary entitlements: A height increase may be considered if it does not exceed the maximum height limit of the underlying zone or governing specific plan and is within 10% of the approved building height and it maintains the basic architectural concept of the project; a height decrease may be considered as well

d. Other

- i. Changes must remain compatible with the original approval, project character and must not create new effects
- ii. A Minor Amendment cannot add or reduce housing units
- iii. Changes cannot be contrary to specific issues of concern in the project record
- iv. Other minor physical changes, not identified above, that the planning manager determines are similar to those described above, may be considered
- v. May not add or substitute conditional uses
- vi. A Minor Amendment is not used for legal nonconforming uses and/ or structures
- vii. Minor Amendments may include conditions

e. Decision Summary

- i. If the proposed MA satisfies the above measuring criteria, then the following decision standards will be used for a recommendation to the planning manager
 1. The proposed minor amendment is consistent with the governing entitlement of which the proposed is governed by, the El Cajon Zoning Code, and applicable regional document(s)
 2. The proposed change does not alter the initial findings to approve the permit
 3. The proposed minor amendment is consistent with the findings contained in the adopting specific plan ordinance (if applicable)
6. The project planner shall complete the review with a recommendation to the planning manager in letter format. The letter shall include reference to the governing entitlement(s), the reasons for the recommendation supported by the decision standards above and applicable governing entitlement approval (e.g. SDP letter, PC, CC Reso., SP Ord.).
7. The decision shall be transmitted in writing to the applicant.
8. A copy of the letter and any approved revised plans shall be placed in the applicable entitlement file.
9. The decision of the planning manager may, within ten days of the date of the written decision, be appealed in writing pursuant to Chapter 17.30 of the Municipal Code. The appellant shall pay the appropriate appeal fee.

CITY OF EL CAJON
PLANNING DIVISION POLICY

Name of policy: Substantial Conformance Review

Policy No. A-18

Adopted by City Council Ordinance No. 4984

Effective Date: February 7, 2013

No. of Pages 3

Related Policies: A-17

Issue Defined:

It is common for project applicants to request changes to approved plans as the project is further refined from a conceptual level to detailed construction drawings. This process often results in refinements to the initial project description, but do not meaningfully alter the project. Planning entitlement documents are prepared at a conceptual level of detail and do not represent a level of specificity sufficient for construction. The following guidelines and measuring criteria address these refinements in a manner to provide for reasonable refinements and within the governing framework of a project's entitlement.

Objective:

Provide an administrative mechanism to review refinements to entitled projects and provide a consistent set of guidelines and measuring criteria.

Benefits:

This system will be beneficial to a project applicant by allowing room to address later refinements after an entitlement has been approved. It defines what may be considered to be in substantial conformance to assure conformance with the original public review process and governing entitlement. It will reduce lengthy entitlement preparation, processing and cost. It will benefit staff by creating a mechanism to review and approve proposed refinements within a consistent and transparent framework. Finally, efficiencies are achieved for the City and applicants in streamlining the process of development.

Policy:

Substantial Conformance Review (SCR) is to determine if a proposed refinement is consistent and in conformance with a previously approved entitlement, provided that such physical refinements do not materially alter the intent, character, development, intensity, density or increase the environmental effects of the approved project entitlement plan.

The following guidelines, measuring criteria and procedure shall be used in making such determinations:

Procedure:

1. The applicant shall file the uniform discretionary permit application and supplemental requirements with the secretary of the Planning Commission.

Substantial Conformance Review Policy

2. The application shall be referred for comment to the appropriate internal City departments and outside agencies, if applicable.
3. Planning staff shall use the following measuring criteria when reviewing SCRs.
 - a. CEQA review
 - i. Proposed change(s) must be within the scope of the CEQA document or Notice of Exemption and not result in any new potentially significant environmental effects.
 - b. Site Design refinements that may be considered
 - i. Building(s), Structure(s), and Equipment
 1. Reorientation
 2. Relocation, deletion, or addition of accessory structures (e.g., trash enclosures, mechanical equipment or other similar structures)
 3. No additional occupancy-rated building square footage
 - ii. Parking and On-site Circulation
 1. Internal circulation pattern may be modified
 2. Slight relocation of access driveways
 3. Re-location or re-orientation of parking spaces
 - iii. Landscaping: Must be consistent with Zoning Code Chapter 17.195
 1. Minor planter area configuration and plant species changes that do not exceed the site's water allowance budget and/ or change the design scheme of the primary building(s)
 - c. Architecture: Minor modifications to architectural features, colors, materials, or structural alterations that maintain the basic architectural concept and do not reduce the architectural quality
 - i. Substitution of materials if they are of equal or a higher quality and maintain the project's comprehensive design scheme
 - ii. Color tone or color changes, consistent with approved color palette
 - iii. Height increase may be considered if it does not add a story or building area and is solely for the purpose of screening or concealing ancillary rooftop equipment
 - iv. Height decrease may be considered if does not result in a story reduction and/ or change the roof structure (e.g., gable to flat)
 - v. Refinements in fenestration
 - vi. Other physical refinements, not identified above, that the planning manager determines are similar to those described above, such as the placement of lighting elements
 - d. Other
 - i. May not add or substitute conditional uses
 - ii. Refinement must remain in substantial conformance and be consistent with the original approval, project character and must not create new effects
 - iii. Changes cannot be contrary to specific issues of concern in the project record
 - iv. A Minor Amendment or a formal amendment of the governing entitlement is required when the change(s) does not meet or exceeds the thresholds/criteria described above

e. Decision Summary

- i. If the proposed SCR satisfies the above measuring criteria, then the following decision standards will be used for a recommendation to the planning manager
 - ii. The proposed refinement is consistent with, or found to be in substantial conformance with, the governing entitlement of which the proposed is governed by, the El Cajon Zoning Code, and applicable regional document(s)
 - iii. The proposed refinement does not alter the initial findings to approve the permit
 - iv. The proposed refinement is in substantial conformance with the findings contained in the adopting specific plan ordinance (if applicable)
4. The project planner shall complete the review with a recommendation to the planning manager in letter format. The letter shall include reference to the governing entitlement(s), the decision standards above supported by reasons for the recommendation, and applicable governing entitlement approval (e.g. SDP letter, PC, CC Reso., SP Ord.).
 5. The decision shall be transmitted in writing to the applicant.
 6. A copy of the letter and any approved modified plans shall be placed in the applicable entitlement file.
 7. The decision of the planning manager may, within ten days of the date of the written decision, be appealed in writing by the applicant to the Planning Commission. The applicant shall pay the appropriate appeal fee.
 8. When the appeal is received by the Planning Division, the secretary of the Planning Commission shall schedule the matter for next available Planning Commission meeting. The planning manager shall provide the Planning Commission with a written brief on the matter and the written appeal.
 9. The Planning Commission shall consider the matter and render a decision regarding the determination. Any decision of the Planning Commission shall be in the form of a resolution and is final, unless appealed to the City Council.
 10. The decision of the Planning Commission shall be transmitted to the applicant.