

**ORDINANCE NO. 532**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLUE LAKE  
ADOPTING REGULATIONS FOR THE PERMITTING OF MICROENTERPRISE  
HOME KITCHEN OPERATIONS WITHIN THE CITY**

The City Council of the City of Blue Lake does ordain as follows:

**Section 1: Chapter 5.09 is hereby added to Title 5 of the Blue Lake Municipal Code as follows:**

**Section 5.09.010. Findings.**

A. Assembly Bill 626 (“AB 626”), which was signed into law on September 18, 2018 and effective January 1, 2019, amended certain provisions of the California Health and Safety Code to allow individuals to store, prepare, and sell food to consumers from a private residence as a microenterprise home kitchen operation.

B. Prior to January 1, 2019, preparing and selling perishable food from a home kitchen was a criminal offense with limited exception.

C. AB 626 legalizes such activity and delegates to local governments the power to permit and regulate microenterprise home kitchen operations in a manner consistent with the requirements set forth in AB 626.

D. The City adopts this ordinance pursuant to its police powers granted under Article XI, section 7 of the California Constitution in order to promote the health, safety and welfare of the residents of the City of Blue Lake.

**Section 5.09.020. Applicability and Interpretation.**

A. The City Council designates the City of Blue Lake as the lead local agency pursuant to Section 114367.3(a) of the California Health and Safety Code for purposes of receiving, reviewing, and issuing permits for microenterprise home kitchen operations within the City of Blue Lake.

B. Nothing in this Ordinance is intended, nor shall it be construed, to exempt any food facility, as defined by Health and Safety Code Section 113789, from any applicable provision of local or state laws or regulations or any other requirements imposed by any government entity having jurisdiction over any such operation.

C. This Chapter is intended to implement the provisions of AB 626 and shall be interpreted consistently therewith.

**Section 5.09.030. Definitions.**

“Lead local enforcement agency” means the City of Blue Lake.

“Local enforcement officer” means the City Manager or his or her designee.

“Microenterprise home kitchen operation” shall mean a food facility that is operated by a resident in a private home where food is stored, handled, and prepared for, and may be served to, consumers, and that meets all of the following requirements:

- (i) The operation has no more than one full-time equivalent food employee, not including a family member or household member.
- (ii) Food is prepared, cooked, and served on the same day.
- (iii) Food is consumed onsite at the microenterprise home kitchen operation or offsite if the food is picked up by the consumer or delivered within a safe time period based on holding equipment capacity.
- (iv) Food preparation does not involve processes that require a HACCP plan, as specified in Section 114419 of the California Health and Safety Code, or the production, service, or sale of raw milk or raw milk products, as defined in Section 11380 of Title 17 of the California Code of Regulations.
- (v) The service and sale of raw oysters is prohibited.
- (vi) 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, or the approximate equivalent of meal components when sold separately, per week.
- (vii) The operation 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.
- (viii) The operation only sells food directly to consumers and not to any wholesaler or retailer.
- (ix) The operation is neither a catering operation, as defined by Section 113739.1 of the California Health and Safety Code, nor a cottage food operation, as defined in Section 113758 of the California Health and Safety Code.

“Residence of a private home” means an individual who resides in the private home when not elsewhere for labor or other special or temporary purpose.

**Section 5.09.040. Permit Required.**

A. A permit issued by the City of Blue Lake must be obtained before a person may lawfully open for business a microenterprise home kitchen operation within the City of Blue Lake. Once issued, a permit is valid for a period of 365 days from the issue date at which time the permit will expire and the permit holder shall apply for renewal to continue to his or her microenterprise home kitchen operation.



B. A permit applicant shall submit, on a form approved by the City, all of the information set forth in Section 114367.2(c) of the California Health and Safety Code, including each of the following requirements:

- (i) All food types or products that will be handled in the microenterprise home kitchen operation.
- (ii) The proposed procedures and methods of food preparation and handling.
- (iii) Procedures, methods, and schedules for cleaning utensils, equipment, and for the disposal of refuse.
- (iv) How food will be maintained at the required holding temperatures, as specified in Section 113996 of the California Health and Safety Code, pending pickup by consumer or during delivery.
- (v) Days and times that the home kitchen will potentially be utilized as a microenterprise home kitchen operation.
- (vi) Consent to an initial inspection and such additional inspections as permitted under Section 114367.3 of the California Health and Safety Code.
- (vii) A valid business license issued by the City or proof of having applied for a valid business license in which case the permit shall not issue until the business license shall have issued.
- (viii) Proof of successful completion by the operator of the microenterprise home kitchen operation of an approved and accredited food safety certification examination as specified in Section 113947.1 of the California Health and Safety Code. The City of Blue Lake shall provide references to interested persons of approved and accredited food safety certification programs.

C. An applicant for a permit shall pay, at the time of submission of his or her application, the permit fee as determined from time to time by resolution of the City Council.

D. After the local enforcement official determines that all required information has been submitted with the permit application and the permit fee has been paid in full, the local enforcement official shall conduct an inspection of the private residence for purposes of determining whether the microenterprise home kitchen operation and its method of operation comply with the requirements of this Chapter and AB 626. For purposes of the inspection, the local enforcement official shall inspect the home kitchen area, onsite consumer eating area (if any), food storage area(s), utensils and equipment, toilet room, janitorial and cleaning facilities, and refuse storage areas.

E. Once issued, the permit shall be retained by the operator onsite and displayed at all times the microenterprise home kitchen operation is in operation.

F. Once issued, the permit is nontransferable. A permit is valid only for the person and location specified by that permit, and, unless revoked or suspended for cause, the permit is valid only for the time period indicated on the permit.

**Section 5.09.050. Enforcement.**

A. Any violation of this Chapter of the applicable provisions of the California Health and Safety Code applicable to microenterprise home kitchen operations shall be unlawful and constitute a public nuisance per se and be subject to injunction, abatement, or any other remedy available to the City of Blue Lake as provided by all applicable provisions of law, including but not limited to administrative or summary abatement of any nuisance conditions, immediate revocation of the permit, and/or a civil action for injunctive relief.

B. Any person, firm, corporation, or other entity, whether as principal, agent, employee or otherwise, violating or causing violation of any provision of this Chapter shall be guilty of a misdemeanor, unless such violation constitutes a felony under California law, in which case the penalty under California shall apply.

C. All remedies provided for herein are cumulative and not exclusive, and are in addition to any other remedy or penalty provided by law. Nothing in this Chapter shall be deemed to authorize or permit any activity that violates any provision of state or federal law.

**Section 2. Severability.**

Should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this ordinance as hereby adopted shall remain in full force and effect.

**Section 3. Effective Date.**

This Ordinance shall go into effect and be in full force and operation 30 days after its final passage and adoption.

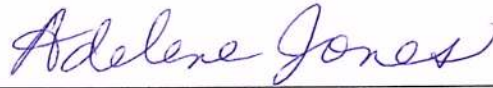


**PASSED, APPROVED, AND ADOPTED** this 23 day of April, 2019.

AYES: Curran, Daugherty, Jones, Ricca, Hogan

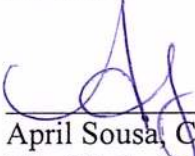
NOES: none

ABSENT: none



Adelene Jones, Mayor  
City of Blue Lake

ATTEST:



April Sousa, CMC  
City Clerk, City of Blue Lake


### CLERK'S CERTIFICATE

**THIS IS TO CERTIFY** that Ordinance No. 532 of the City Council of the City of Blue Lake was introduced and read at the regular meeting of the City Council of the City of Blue Lake, California, held on Mar. 26, 2019. This Ordinance, again read at the regular meeting of the Blue Lake City Council, held on Apr. 23, 2019 and at the time, passed by roll call vote, the vote on the adoption of the Ordinance being as follows:

AYES: Jones, Ricca, Daugherty, Curran, Hogan

NOES: None

ABSENT: none



April Sousa, CMC  
City Clerk, City of Blue Lake