REAL ESTATE

RULES FOR THE OPERATION OF DARK KITCHENS IN SÃO PAULO

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A pioneer in the regulation of the topic in Brazil, São Paulo Municipal Law 17,853l(aw 17,853/22), which regulates establishments made up of sets of industrial kitchens, popularly known as dark kitchens, went into effect on November 30, 2022.

Approved by the City Council in a second and definitive vote and promulgated by Mayor Ricardo Nunes, the law stems from Bill 362/22 - proposed and filed by the Municipal Executive. The text also amends the wording of the article regarding noise limits imposed on large events and shows, provided for in the law that provides for the use and occupation of the soil in the City of São Paulo (Law 16,402/16).

A dark kitchen is a business model consolidated in countries like the United States, United Kingdom, and India. The concept involves equipping a conglomerate of kitchens and selling these spaces to various restaurants that work exclusively with a delivery service. In parallel, services are offered that range from maintenance and cleaning of the space to centralization of digital order platforms, which facilitates day to day operations.

The growth of dark kitchens in several predominantly residential neighborhoods in the City of São Paulo had been causing various nuisances - noise pollution, the presence of many drivers and delivery motorcycles at the door of the establishment hindering traffic and causing noise in the surroundings, nuisance from smoke from active kitchens, among others.

With the regulation, the aim was to reduce these problems. The law divided the operations of dark kitchens into two groups and established permitted Occupancy Use Zones for their installation.

For a warehouse of up to 500 m² with 3 to 10 kitchens, it is understood that the activity is compatible with a residential neighborhood. Their installation, therefore, is allowed in most of the city's use zones, with the exception of Corridor Zones (ZCOR), zones located in the Environmental Protection and Recovery Macrozone, and preservation zones, such as the Exclusively Residential Zones (ZER) and the Special Environmental Protection Zones (Zepam).

For a warehouse with an area larger than 500 m² or with more than ten kitchens, the activity is considered to generate urban and environmental impacts. For this reason, their installation is restricted to Predominantly Industrial Zones (ZPI-1 and ZPI-2) and Economic Development Zone 2 (ZDE-2).

The text also highlights the need for dark kitchens already installed to adapt within 90 days after the law comes into effect, that is, the beginning of March of this year. Among the main measures are the following:

- adjust the minimum area of each kitchen to the limit determined.
- comply with the minimum distance between an existing or licensed dark kitchen and another;
- submit to the Municipal Secretary of Green and Environment a memorandum characterizing the enterprise;
- install, in a visible place, the data and licenses concerning each ongoing operation;
- adjust the noise levels generated by the establishment to the limits of the legislation in effect.

Another issue addressed in the law has generated a lot of controversy because it is unrelated to dark kitchens. This is a change in the sound pressure limit to 75 decibels in the place or surroundings where large events and shows will be held.

Overall, Law 17,853/22 brings more security to both citizens and operators/entrepreneurs of dark kitchens, by defining installation and operation rules to minimize impacts to their surroundings and facilitate coexistence with other municipal facilities. The classification standard is noteworthy because it makes it clear that the installation of dark kitchens in strictly residential areas - a great nightmare for residents - is not allowed.