FOOD ADVISORY COMMITTEE MEETING
2:30 PM – 4:00 PM; Monday, September 23, 2019
3131 O Street, Lincoln NE
Lower Level Training Center Room 0212
Proposed Agenda

WELCOME TO EVERYONE. THE FOOD ADVISORY COMMITTEE MEETING COMPLIES WITH THE OPEN MEETINGS LAW AND A COPY OF THE OPEN MEETINGS LAW IS POSTED AT THE ROOM ENTRANCE.

I. Roll Call – Linda Dennis

II. Approval of Agenda – Linda Dennis

III. Approval of Minutes from the September 27, 2018 Meeting – Linda Dennis

IV. New Business – Action Items
   A) Revision to Policy 222.39 – FBI Illness Complaint Investigations – Justin Daniel
   B) Revision to Policy 222.01 – Food Safety Program QI and Standardization – Justin Daniel
   C) LB 304 Facilitated Discussion and Recommendation – Justin Daniel/Renae Rief

V. Public Session – Linda Dennis
   Any person is free to speak to any item on this agenda at the time it is discussed. Any person wishing to address the Committee on a matter not on this agenda may do so at this time.

VI. Schedule Next Meeting – December 2019

VII. Adjournment

Copies of the meeting materials will be provided at the meeting. If you are not able to attend, please contact Justin Daniel at jdaniel@lincoln.ne.gov or 402-441-8033.

This agenda will be kept continually current and will be available for public inspection within the Lincoln-Lancaster County Health Department during normal working hours. A copy of the Open Meetings Law is posted at the meeting site.

The City of Lincoln complies with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 guidelines. Ensuring the public’s access to and participating in public meetings is a priority for the City of Lincoln. In the event you are in need of a reasonable accommodation in order to attend or participate in a public meeting conducted by the City of Lincoln please contact Marcia Huenink at the Lincoln-Lancaster County Health Department at 402-441-8634 as soon as possible before the scheduled meeting date in order to make your request.
FOOD ADVISORY COMMITTEE MEETING MINUTES
Thursday, September 27, 2018
2:30 to 4:00 p.m.
3131 O Street, Lincoln NE
Room 2135, 2nd Floor

WELCOME TO EVERYONE. THE FOOD ADVISORY COMMITTEE MEETING COMPLIES WITH THE OPEN MEETINGS LAW AND A COPY OF THE OPEN MEETINGS LAW IS POSTED AT THE ROOM ENTRANCE.

I. Roll Call – Linda Dennis
Present: Julie Albrecht, Linda Dennis, Jay Jarvis, Kelly Knudson, Jim Partington, Vincent Murphy, Matt Morrison, Kathy Siefsken

Absent: Eric Bahm, Michelle Crites, Tom Hansen, Edith Zumwalt, Linda Major, Andrew Tipton

Staff Present: Justin Daniel, Ben Davy, Scott Holmes, Renae Rief, Andrea Bethke, Mary Murrieta, Marcia Huenink

II. Approval of Agenda – Linda Dennis
Linda Dennis asked if there were any corrections or additions to the agenda.

Motion: Moved by Jim Partington that the agenda be approved as printed. Second by Julie Albrecht. Motion carried 7-0.

III. Approval of Minutes from the November 9, 2017 Meeting – Linda Dennis
Linda Dennis asked if there were any additions or corrections to the minutes from the November 9, 2017 meeting.

Motion: Moved by Kelly Knudson that the November 9, 2017 minutes be approved as printed. Second by Vincent Murphy. Motion carried 7-0.

IV. New Business – Action Items
A) Revision to Policy 222.31 – Food Establishment Enforcement – Justin Daniel
Justin gave a brief overview of the policy. Most of the change are language. Most changes have been made in 4B – this is related to the follow-up inspections from resulting Notice of Violation and/or Food Enforcement Notice.

Motion: Moved by Kathy Siefsken to approve changes made to Policy 222.31. Seconded by Kelly Knudson. Motion carried 8-0.

B) Revision to Policy 222.37 – Food Handler and Food Manager Permit Enforcement – Justin Daniel
Justin gave a brief description of the recommended changes made to the policy. Page 3 – chart allowing for employee who has recently been promoted to manager and needs to
FPM permit. They are given a 30 day “grace” period to come into compliance with the required Food Manager Permit.

Motion: Moved by Julie Albrecht to approved recommended changes to Policy 222.37. Second by Jim Partington. Motion carried 8-0.

VI. New Business – Informational Items
A) **FDA Standards update** – Justin Daniel
   Brief description of the standards that LLCHD have met and that with have one standard, Standard 6 that we are still needing to meet. Justin described the process of coming into compliance with Standard 6. The standard was first audited in 2015. The audit showed 61% of adequate compliance. LLCHD needs 80% compliance to meet Standard 6. The standard was audited again in 2018 and the audit showed 76.6% compliance. Although we didn’t meet the standard, significant improvement was shown. Justin described the goal of working to come into compliance with Standard 6.
   
   Standard 7 – Industry Relations – Last audited in 2012 and LLCHD met the standard. It was due to be audited again in 2018. Justin described what was needed to meet the Standard. He provided the agenda and minutes of FAC for the last five years. Justin gave a brief description of what was needed to submit to show LLCHD compliance with Standard 7. The Minnesota Health Department did the audit of our submitted documentation. They determined that LLCHD was meeting Standard 7.

B) **Active Managerial Control Inspections** – Scott Holmes/ Ben Davy
   Scott provided a description of what are Active Managerial Control Inspections and the goal of using them within Food Program.
   
   The inspection will be a conversation/discussion on the FDA Risk Factors:
   1. Food from unsafe Sources
   2. Poor Personal Hygiene
   3. Inadequate cooking
   4. Improper holding time/tempr
   5. Contaminated Equipment Protection from Contamination.
   
   Will be targeting 30 establishments with these type of inspections to gather data to see how it goes. The group will bring the data back to FAC with results.
   
   It was asked how the establishments would be chosen for the inspections. They will be randomly chosen. Not quite sure the process yet.

C) **Cottage Foods** – Scott Holmes
   Last year LB764 was introduced in the Legislature. Scott described what the legislative bill covers and concerns that the Health Department has with cottage foods. Listen to recording for more detailed description. More than likely this bill will be reintroduced this year in the 2019 legislative session. Kathy indicated that she and Jim Partington met with Senator Campbell regarding this proposal.
D) **Food Delivery Services** – Justin Daniel
We have seen an increase in food delivery services. Justin wanted to get the Advisory Committee sense on. According to Kathy it’s in state statues and these delivery businesses be permitted. Britta Phillips from My Town-To-Go delivery businesses gave a brief description of her business. She requires all of her delivery drivers to hold a food handler permit. Britta will be getting her Food Protection Manager Permit.

VII. **Public Session** – Linda Dennis
Any person is free to speak to any item on this agenda at the time it is discussed. Any person wishing to address the Committee on a matter not on this agenda may do so at this time.

VIII. **Schedule Next Meeting** – November/December 2018

IX. **Adjournment**
Linda Dennis asked for a motion to adjourn the meeting.

Motion to adjourn by Julie Albrecht. Second by Kelly Knudson.

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POLICY NUMBER: 222.39
DIVISION: Environmental Public Health
POLICY TITLE: Foodborne Illness Complaint Investigations
AGENCY(ies): Lincoln-Lancaster County Health Department
AUTHORITY: Board of Health
DRAFTED: 09-22-09
APPROVED: 10-13-09
REVISED: 12-18-15
APPROVED: 1-12-16

POLICY STATEMENT:

Each foodborne illness/outbreak complaint will be considered priority and investigated by the Food Safety Program within 24 hours. All complaints pertaining to a food or food establishment will be kept in a LLCHD digital record management system. Documentation of the complaint investigation shall be complete and accurate.

Foodborne illness shall be defined as any disease caused by ingestion of contaminated food. Foodborne outbreak shall be defined as the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food, or single cases of certain rare and serious conditions, such as gastrointestinal anthrax, botulism, or cholera.

A Registered Environmental Health Specialist (EHS) in the Food Safety Program shall be designated as the Lead Environmental Health Investigator.

PROCEDURE:

I. Receiving a Complaint. All foodborne illness complaints received by the food safety program will be processed as follows (See Exhibit 1: Foodborne Illness Reporting Process Map):

A. The Lead Environmental Health Investigator (LEHI) is the primary contact to receive all foodborne illness complaints, seek to conduct the interview; and thoroughly complete the Foodborne, Waterborne, and Enteric Illness Report Form (Exhibit 24). The Senior Office Assistant Disease Prevention support staff shall initialize a complaint in Accela Automation assigning the case to the Lead Environmental Health Investigator (LEHI); or in their absence, the complaint shall be assigned to the designated Secondary EHS Environmental Health Investigator (SEHI). When both the LEHI and the SEHI are not available to be contacted, support staff will contact the Disease Prevention Supervisor. If support staff are unable to contact the Supervisor, the complaint will be assigned to the EHS that inspects the establishment associated with the complaint. All information shall be documented in Accela Automation and/or scanned into the complaint case.
B. When an EHS is not available, the Disease Prevention support staff taking the call will gather contact information, the nature of the complaint, and initialize a complaint in Accela Automation. An EHS, Environmental Health Supervisor, or Division Manager will be given the information as soon as possible. The EHS investigating the complaint will contact the complainant for more information.

C. The complainant information shall be documented into Accela Automation and is automatically forwarded to the assigned EHS via e-mail.

C. Once notified of the complaint, the LEHI will initiate contact with the complainant. The LEHI will use the Foodborne, Waterborne, and Enteric Illness Report Form to guide follow-up with the complainant. The primary objective is to determine if there is evidence of the illness being part of an outbreak cluster, rather than an isolated illness or a family cluster. When the illness is isolated or contained to a household, follow-up will then be completed with the establishment (phone, email, in-person). In the event other illness complaints or ill food handlers are discovered, the LEHI shall conduct an environmental investigation and involve including the SEHI and other Disease prevention staff as appropriate, beginning with the SEHI.

E. In the event of the report of multiple illnesses that would indicate a foodborne illness outbreak, the Disease Prevention support staff shall immediately contact the LEHI, SEHI, Disease Prevention Supervisor, EPH Division Manager or the Communicable Disease staff at the report. The LEHI will coordinate the environmental health investigation effort and serve as the primary liaison for EPH with Communicable Disease staff and others involved in the investigation (local, state, federal, industry). The SEHI will provide primary assistance to the LEHI in the environmental investigation portion. When the investigation requires additional resources, the LEHI will coordinate resource allocation of Disease Prevention staff.

II. The Lead Environmental Health Investigator is responsible for identifying trends, multiple complaints at the same or related establishments, or implicated foods. This information will be shared with the Food Safety Team each month at the Food Team Meeting, and with the LLCHD Communicable Disease Program as needed.

III. In the event that an environmental investigation is warranted, the EHS shall perform an environmental health investigation of the implicated food or food establishment(s) in a time appropriate response to the type or severity of the illness, but in no case more than 24 hours. An environmental health investigation is a systematic, detailed, science-based evaluation of environmental factors that contributed to transmission of a particular disease in an outbreak.

A. Upon identification of the person in charge, the EHS will emphasize that the purpose of the investigation is to determine events or activities that may have contributed to an illness/outbreak of a foodborne disease so that measures can be taken to prevent reoccurrence.
B. An on-site investigation shall include the observance of potential sources that may be responsible for a foodborne illness. The goals of an environmental health investigation are to identify:
   1. possible points of contamination of the implicated food with the disease agent,
   2. whether the causative agent could have survived (or, in the case of a toxin, not been inactivated),
   3. whether conditions were conducive for subsequent growth or toxin production by the disease agent, and
   4. antecedents that resulted in the conditions allowing the outbreak to happen.

C. Responsibilities of the EHS investigating the complaint may include any or all of the following:
   1. investigates food-preparation sites, including sites involved with growing, raising, processing, manufacturing, packaging, storing, and preparing food;
   2. collects environmental and food samples;
   3. reports results;
   4. arranges for testing of samples;
   5. coordinates food sampling, management and testing procedures with the NDOA;
   6. interviews food workers and managers;
   7. reviews food-preparation and food-handling records;
   8. reviews food inventory and distribution records, food flow, and contributing factors;
   9. consults with epidemiologic and laboratory investigators; and/or
   10. assist Communicable Disease to interview cases and conduct traceback investigations.

D. Any needed enforcement action will be taken per Policy 222.31- Food Establishment Enforcement.

E. Investigation findings shall be documented in an InspecTab report or on an Environmental Public Health Inspection Report “short form.” The investigation reports shall be downloaded or scanned into the establishment’s Accela Automation file.

F. When the investigation is complete, comments shall be entered into the Accela Automation complaint file by proceeding through the “Workflow” tab. The “Intake” tab will be selected, and any relevant comments concerning the complaint shall be entered and saved. Prior to closing the complaint, the complaint must be classified as substantiated or not substantiated. Under the “ASI” tab, the complaint “Allegation Found” shall be completed as substantiated or not by selecting “Yes” or “No”. The Accela Automation will not close a complaint until this is completed. When the case is completed, the status in “Workflow” shall be moved to “Closed”.

IV. Outbreak Response. When 2 or more individuals report illness from the same establishment or food source, or single cases of certain rare and serious conditions, such
as gastrointestinal anthrax, botulism, or cholera, the Food Safety Team shall discuss the complaint information and an outbreak investigation shall be considered.

A. An Epi Team meeting may be called following Policy 700.01.101.09- Epidemiologic (Epi) Team to review information collected by the Communicable Disease Section and the Food Safety Program. Upon reviewing the information, the Epi Team will determine what actions will be taken.

B. Information gathered from the investigation may be shared with any appropriate regulatory authority such as the Food and Drug Administration, United States Department of Agriculture, Nebraska Department of Agriculture, Nebraska Department of Health and Human Services, and/or any other associated local/tribal health department(s).

C. A summary report of the Food Safety Program activities related to a specific outbreak will be prepared by the Lead Environmental Health Investigator. This report will be provided to the Communicable Disease Section as part of a complete report provided to the Nebraska Department of Health and Human Services and the Nebraska Department of Agriculture. This report shall be considered confidential.

D. Upon request, if a public information request is made for a copy of the report, the LEHI shall notify the Disease Prevention Supervisor and the Division Manager within 24 hours. The LEHI and Communicable Disease coordinator shall modify the complete report to remove specific information related to names of persons and identifying information on food establishments. Any public release of the modified outbreak summary report must be approved by the EPH Division Manager, Health Director and/or the City Law Department. If a copy of the report is requested, a copy of the report (deidentified) will be provided to the requestor.
LLCHD Foodborne, Waterborne, Enteric Illness Report

Accela Automation Record Number:

Reported by: _______________________________ relationship to case (parent, spouse etc.)

Address: __________________________________ Phone: _______________________________

Place of Employment/School/Volunteer work: __________________________________________

Food Handler? Yes  No  Child Care Provider? Yes  No  Health Care Provider? Yes  No

Date suspect meal was consumed __/__/____ Time ______ AM  PM

Establishment name and location of suspect meal: _______________________________________

All food and beverages consumed at that location: _______________________________________

Were others in case’s dining party also ill? Yes  No  List names and contact information (if known) below:

_________________________________________________________________________________

_________________________________________________________________________________

Symptoms (circle all that apply)  Onset Time (AM/PM)  Other Symptoms Noted:

Nausea
General diarrhea
Bloody diarrhea
Abdominal Cramps
Vomiting
Headache
Fever

Is the case currently symptomatic? Yes  No

Medical care provided? Yes  No

Where?

Other household members ill? Yes  No
(If yes- list name and relationship to case below)

_________________________________________________________________________________

Other meal(s) consumed with case? Yes  No
(Other ill parties only)

_________________________________________________________________________________
**Contributing Factors**

Recent travel outside of the state or country?  Yes  No  where?  

Pool, spa, recreational water use, or camping in the past 2 weeks?  Yes  No  where?  

Are there pets in the home, do you work with animals, or have you visited a petting zoo recently?  Yes  No  

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**72 HOUR FOOD HISTORY**

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<th>DATE</th>
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<th>FOOD and BEVERAGES Consumed</th>
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Accela Automation Record Number: _______________________

Establishment Information

Establishment Name ____________________________________________

Establishment Phone ____________________________________________

Establishment PIC ______________________________________________

Recently Ill Food Handlers? Yes No

If Yes:
Employee Name(s) ____________________________________________

Date Excluded ________________________________________________

Date Returned ________________________________________________

Other Recent FBI Complaints to Establishment? Yes No

Comments: __________________________________________________

____________________________________________________________

____________________________________________________________

Other Comments: _____________________________________________


December 29, 2015
POLICY NUMBER: 222.01
DIVISION: Environmental Public Health
POLICY TITLE: Food Safety Program Quality Improvement and Standardization
AGENCY (ies): Lincoln-Lancaster County Health Department, Nebraska Department of Agriculture
AUTHORITY: Board of Health
DRAFTED: 04-26-1990
APPROVED: 06-12-1990
REVISED: 09-07-2010; 12-18-15; 5-22-19
APPROVED: 11-09-2010

POLICY STATEMENT:
The Lincoln-Lancaster County Board of Health (BOH) has adopted Healthy People 2010 Health Objectives for the Year 2010 for Lincoln & Lancaster County as its Ends Objectives. The Safe Food Health Objective for the Year 2010 is to "Reduce the incidence of foodborne illness and assure the public is provided safe wholesome food." In order to achieve this objective, it shall be the policy of the BOH that the FDA Voluntary National Retail Food Regulatory Program Standards (FDA Standards) will be used to evaluate the overall quality of the LLCHD Food Safety Program.

The BOH's goal is for the LLCHD Food Safety Program to meet the FDA Standards. Achieving this goal will assure high quality services are provided to the regulated industry and the public's health will be protected. High quality services shall be defined, based on the FDA Standards, to include: assuring adequate regulatory authority; training staff adequately; conducting inspections based on Hazard Analysis of Critical Control Point principles; conducting uniform inspections; investigating potential food borne illnesses rapidly; applying compliance and enforcement procedures fairly; maintaining good industry and community relations; and assuring adequate program support and resources.

Environmental Health Specialists who perform food establishment inspections shall meet and maintain certifications as a Registered Environmental Health Specialists with the State of Nebraska and a Certified Professional - Food Safety with the National Environmental Health Association.

PROCEDURES:

I. LLCHD shall use the FDA Voluntary National Retail Food Regulatory Program Standards to evaluate the overall quality of LLCHD’s Food Safety Program. The Board of Health’s goal for LLCHD’s program is to meet the FDA Standards.

A. When a standard is met, FDA shall be notified and an audit by an FDA trained auditor will be requested. The Required paperwork shall be completed and filed with FDA once the audit is completed.
B. A report on the progress of achieving the FDA standards shall be provided annually to the Board of Health.

II. As a requirement of LLCHD’s contract with the Nebraska Department of Agriculture (NDA) to do food establishment inspections, NDA shall review LLCHD’s compliance with two of the FDA Retail Food Program Standards. The two standards to be used for the year shall be mutually agreed upon by NDA and LLCHD. conducts a comprehensive evaluation of our food program at either a four or five year interval. NDA evaluation reports will be presented to the Food Advisory Committee and the Board of Health, along with staff recommendations for program improvements.

III. The Food Team Training and Standardization Coordinator (Standardization Officer) shall be “standardized” biennially by a NDA Food Service Evaluation Officer.

IV. Each Food Team Environmental Health Specialist I (EHS) shall be standardized annually by LLCHD’s Food Team Training and Standardization Coordinator. Each Food Team Senior EHS and EHS II shall be standardized biennially by LLCHD’s Standardization Officer.

A. For each standardization, the Standardization Officer shall follow the requirements of FDA Standard #2, Trained Regulatory Staff, observe a minimum of eight inspections with every EHS who conducts food establishment inspections.

1. The Standardization Officer shall select establishments assigned to the EHS that are due for a regular inspection based on intervals prescribed by Policy 222.38. Standardizing inspections shall be conducted at different facility types.

2. The EHS shall take the lead and announce to the owner/manager the purpose of the inspection. The EHS shall conduct the inspection and document violations following Policy 222.30 - Routine Food Establishment Inspection. The Standardization Officer shall accompany and observe the EHS through the entire inspection and exit interview. The Standardization Officer shall discuss food code violations, interpretations, and inspection techniques as needed.

3. The Standardization Officer shall review the inspection records and evaluate if the EHS has completed routine inspections of establishments at the inspection interval established in LLCHD Policy 222.38.

B. The Standardization Officer shall prepare a written standardization report. The Standardization Officer shall compare the eight standardization inspection reports to the last regular inspection reports. The report will include comparisons of violations between the two inspections, denote findings, conclusions, and recommendations. Statistical reports of historic inspection information for the EHS shall be reviewed for inconsistencies in marking violations and code interpretations.
1. If significant inconsistency in marking violations is identified, the Standardization Officer shall notify the Food Team Supervisor immediately.

2. The standardization report shall be reviewed and discussed by the Standardization Officer with the individual EHS.

3. The Standardization Officer shall provide copies of the standardization report to the EHS, Food Team Supervisor, and NDA.

4. The standardization report shall be used in each EHS’s annual performance appraisal. Areas of strengths and areas of improvement shall be included.

V. The Standardization Officer shall identify inconsistencies and clarify interpretations with the Food Team and NDA as appropriate.

A. The Standardization Officer shall randomly review copies of inspection reports for code reference number accuracy. Questionable interpretation issues shall be brought to the attention of the EHS.

B. The Food Team will meet monthly to discuss interpretations and address quality improvement issues. Any team member may add issues to the agenda. If the Standardization Officer is not sure of the correct interpretation, an NDA Standardizing Officer shall be consulted.

VI. The Food Team Supervisor will randomly review food inspection reports to verify that the documentation of violations are complete and clearly stated.

VII. A copy of each completed inspection report shall be sent to the establishment permittee within one week of the inspection. A cover letter (Exhibit 1) shall be included with each mailing. Copies may be sent electronically if requested by the permittee.

VIII. The Food Team Supervisor shall adjust geographical area assignments among Food Team at a minimum of every three years.

IX. All Environmental Health Specialists who perform food establishment inspections shall meet requirements and become certified as a Registered Environmental Health Specialists (REHS) with the State of Nebraska within three years of date of hire. In addition, they shall become registered as a Certified Professional - Food Safety (CP-FS) with the National Environmental Health Association within five years from date of hire, or within two years of becoming an REHS. The EHS shall maintain their REHS and CP-FS certifications for as long as they are working in the Food Safety Program.
Dear Food Establishment Permittee:

Enclosed is a copy of the last inspection conducted at:

(Insert name and address of establishment)

Permit Number: (insert file number of establishment)

for which you are listed as the permittee. It is the policy of the Lincoln-Lancaster County Health Department to mail a copy of an inspection report to all permittees to ensure that you are fully informed of the results of inspections. If you have any questions, please contact the Environmental Health Specialist whose name appears on the inspection form.

Justin L. Daniel Jensen, REHS, CP-FS
Environmental Health Supervisor
Environmental Public Health Division
LEGISLATIVE BILL 304

Approved by the Governor May 01, 2019

Introduced by Crawford, 45; Blood, 3; Hansen, B., 16.

A BILL FOR AN ACT relating to the Nebraska Pure Food Act; to amend sections 81-2,239 and 81-2,245.01, Revised Statutes Cumulative Supplement, 2018; to exempt certain operations from the definition of a food establishment as prescribed; to require registration of certain operations; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 81-2,239, Revised Statutes Cumulative Supplement, 2018, is amended to read:

81-2,239 Sections 81-2,239 to 81-2,292 and section 3 of this act and the provisions of the Food Code and the Current Good Manufacturing Practice In Manufacturing, Packing, or Holding Human Food adopted by reference in sections 81-2,257.01 and 81-2,259, shall be known and may be cited as the Nebraska Pure Food Act.

Sec. 2. Section 81-2,245.01, Revised Statutes Cumulative Supplement, 2018, is amended to read:

81-2,245.01 Food establishment shall mean an operation that stores, prepares, packages, serves, sells, vends, delivers, or otherwise provides food for human consumption. The term does not include:

(1) An establishment or vending machine operation that offers only prepackaged soft drinks, carbonated or noncarbonated; canned or bottled fruit and vegetable juices; prepackaged ice; candy; chewing gum; potato or corn chips; pretzels; cheese puffs and curls; crackers; popped popcorn; nuts and edible seeds; pies; pies; and cookies, cakes, pies, and other pastries, that are not time/temperature control for safety foods;

(2) A produce stand that only offers whole, uncut fresh fruits and vegetables;

(3) A food processing plant;

(4) A salvage operation;

(5) A private home or other area where food that is not time/temperature control for safety food is prepared for sale or service at a religious, charitable, or fraternal organization's bake sale or similar function;

(6) A private home or other area where food that is not time/temperature control for safety food is prepared directly to the consumer including, but not limited to, at a farmers market, fair, festival, craft show, or other public event or for pick up at or delivery from such private home or other area. A private home or other area where food is prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority and may contain allergens. Food is sold at a farmers market, fair, festival, craft show, or other public event, such notification shall be at the sale location. For sales conducted for pick up at or delivery from a private home or other area, such notification shall be at such private home or other area, on the producer’s web site if one exists, and in any print, radio, television, or internet advertisement for such sales;

(b) The name and address of the producer is provided to the consumer on the package or container label;

(c) Product delivery is made directly from the producer to the actual customer in a person-to-person transaction or by United States mail or a commercial mail delivery service;

(d) The producer follows any food safety and handling guidelines for sale at a farmers market, fair, festival, craft show, or other public event required by the county, city, or village where the food is sold;

(e) Prior to conducting any food sales, the producer, other than one selling directly to the consumer at a farmers market, has successfully completed (i) a nationally accredited food safety and handling education course that covers topics such as food safety issues, regulations, and techniques to maintain a food-safe environment or (ii) a certified food safety and handling training course offered at a culinary school or as required by a county, city, or village to obtain a food handler permit;

(f) The producer, if using private well water to produce food sold under this subdivision, has had such well water tested for contamination by nitrates or bacteria prior to conducting any food production and sales; and

(g) The producer complies with section 3 of this act.

(8) A private home or other area where food is prepared for distribution at a fundraising event for a charitable purpose if the consumer is informed by a clearly visible placard at the serving location that the food was prepared in a kitchen that is not subject to regulation and inspection by the
regulatory authority. This subdivision does not apply to a caterer or other establishment providing food for the event if the caterer or establishment receives compensation for providing the food;

(9) (8) The location where food prepared by a caterer is served so long as the caterer only minimally handles the food at the serving location;

(10) (1) Educational institutions, health care facilities, nursing homes, and governmental organizations which are inspected by a state agency or a political subdivision other than the regulatory authority for sanitation in the food preparation areas;

(11) (4) A pharmacy as defined in section 71-425 if the pharmacy only sells prepackaged pharmaceutical, medicinal, or health supplement foods that are not time/temperature control for safety or foods described in subdivision (1) of this section; and

(12) (4) An establishment which is not a commercial food establishment and which sells only commercially packaged foods that are not time/temperature control for safety foods.

Sec. 3. A producer of food described in subdivision (7) of section 81-2,245.01 shall register with the department prior to conducting any sales of food. The registration shall be made on forms prescribed by the department and include (1) the name, address, and telephone number of the producer, (2) the type of food safety and handling education or training course taken and the date of its successful completion, and (3) proof of private well water testing pursuant to subdivision (7)(f) of section 81-2,245.01, if applicable. This section shall not apply to a producer of food selling directly to the consumer at a farmer's market.

Sec. 4. Original sections 81-2,239 and 81-2,245.01, Revised Statutes Cumulative Supplement, 2018, are repealed.
LB 304 Summary – Prepared by Scott Holmes, LLCHD, September 10, 2019

LB304, commonly referred to as the “Cottage Foods” bill, was passed by the Nebraska Legislature and signed by Governor Ricketts in 2019. LB304 amended the Nebraska Pure Food Act to allow individuals to sell the same non-potentially hazardous foods (aka not time-temperature controlled for safety foods) already authorized for sale at farmers’ markets directly to consumers at the producer’s home, a fair, festival, craft show, or other public event or for pick up or delivery. LB 304 requires that all products be properly labeled and that producers follow the food safety and handling guidelines for food sales at a farmers market required by the county where the food is sold.

More specifically, LB 304 changed NRSS 81-2,245.01 modifying the definition of a food establishment. It created an exemption from the definition of a food establishment for a private home or other area where food that is not time/temperature control for safety food is prepared for sale directly to the consumer including, but not limited to, at a farmers market, fair, festival, craft show, or other public event or for pick up at or delivery from such private home or other area. (NRSS 81-2,245.01 Section 7)

The bill also created specific requirements for these private homes or other areas, including:

(a) Consumer notification that the food was prepared in a kitchen that is not subject to regulation and inspection and may contain allergens.

- If the food is sold at a farmers market, fair, festival, craft show or other public event, the notification must be at the location of sale.

- If the food sale is conducted for pick up or delivery, such notification shall be at the preparation site, on the producer’s web site, and in any print, radio, television, or Internet advertisement for such sales.

(b) The name and address of the producer must be provided to the consumer on the package or label;

(c) Product delivery must be made directly from the producer to the actual customer in a person-to-person transaction by US mail or commercial mail delivery service.

(d) The producer must follow any food safety and handling guidelines for sale at a farmers market, fair, festival, craft show or other public event required by the county, city or village where the food is sold;

(e) Prior to conducting any food sales, the producer, other than one selling directly to the consumer at a farmers market, must successfully complete (i) a nationally accredited food safety and handling education course that covers topics such as food safety issues, regulations, and techniques to maintain a food-safe environment or (ii) a certified food safety and handling training course offered at a culinary school or as required by a county, city, or village to obtain a food handler permit;

(f) If the producer uses a private well, it must be tested for nitrates and bacteria prior to conducting any food production.
Section 3 requires that the producer of food register with NDA prior to conducting any sales of food. The registration shall include: (1) the name, address and telephone number, (2) the type of food safety and handling education or training course taken and the date of its successful completion, and (3) proof of private water well testing.