



LIVINGSTON COUNTY  
Health Department

## **Food Protection Enforcement Procedures**



The Livingston County Health Department (LCHD) Food Protection Enforcement Procedures are hereby established under the authority of Section 289.3117 of Public Act 92, Food Law and Sections 2441 and 2442 of Public Act 368, Michigan's Public Health. The procedures have been developed to provide equal protection and due process as required under the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.271 to 24.292.

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## **GUIDING PRINCIPLE:**

Safe food is fundamental for human health; therefore, food safety risks must be managed to prevent and control foodborne illness.

LCHD will implement the following progressive enforcement procedures when food safety compliance is not obtained voluntarily. The procedures include the criteria for compliance and enforcement action, the responsibilities of all parties, and sanctions for noncompliance.

## **SECTION I Definitions**

**Active Managerial Control:** A purposeful incorporation of specific action or procedures by the management of a Food Service Establishment to obtain control over foodborne illness risk factors. This is a preventive rather than a re-active approach to food safety through a continuous system of monitoring and verification.

**Certified Manager:** A food establishment managerial employee who is currently food safety certified under a personnel certification program accredited by the American National Standards Institute.

**Chronic Violation:** A specific violation that is documented on three (3) of the last five (5) routine inspections, but which need not be on consecutive inspections. Chronic violation does not include those items that have had two (2) consecutive routine inspections in compliance.

**Continuous Violation:** A specific violation that is observed during an evaluation, is documented, and persists on the next two routine and/or follow-up evaluations without correction. (Example: routine evaluation / follow-up evaluation / follow-up evaluation.)

**Compliance:** All of the following must be met to be in compliance:

- a. Imminent or substantial hazards do not exist.
- b. Un-corrected Priority and Priority Foundation violations do not exist.
- c. Chronic and/or Continuous Priority and Priority Foundation violations do not exist.
- d. Chronic and/or Continuous Core violations do not exist.
- e. Core violations are corrected according to a compliance schedule.

**Compliance Schedule:** A mandated or agreed upon time frame for a food service establishment to meet compliance.

**Core Item:** A provision of the Food Code that is not designated as a Priority item or a Priority Foundation item. This violation usually relates to general sanitation, operational controls, sanitation standard operating procedures, facilities or structures, or general maintenance.

**Director:** The director of the department or his or her designee.

**Enforcement Follow-Ups:** A food safety assessment of a food service establishment conducted by LCHD to verify correction of a chronic or continuous violation. A re-inspection fee shall be required for enforcement follow-up. In addition an office conference may be

scheduled.

**Evaluation:** A risk-based food safety assessment of a food service establishment conducted by LCHD. An evaluation is conducted to determine compliance and the effectiveness of the food service establishment to control risks of foodborne illness based on the risks inherent to the food operation. Evaluation includes routine, preopening, follow-up, complaint, foodborne illness, or other.

**Follow-Up Evaluation:** A food safety assessment of a food service establishment conducted by LCHD to verify correction of previously cited violations.

**Food Code:** The Michigan Food Law of 2000, as Amended, the Michigan Public Health Code and the FDA Federal Food Code.

**Food Law:** Michigan Food Law (Act No. 92 of 2000, as amended)

**Food Safety Knowledge:** The person in charge of a food service establishment shall demonstrate knowledge of food safety. Based on the risks inherent to the food operation, LCHD may request that the person in charge demonstrate knowledge food safety by explaining requirements of the food code as they apply to the food service operation.

**Food Service Establishment:** A fixed or mobile restaurant, coffee shop, cafeteria, short order café, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment, private organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other drinking establishment or operation where food is served or provided for the public.

**Health Department:** The Health Officer and his/her representatives of the Livingston County Department of Public Health.

**Health Officer:** The Health Officer as defined by Michigan Public Health law or his/her designated representative.

**Hearing Board:** The Health Officer or his/her designated representative, a member of the Livingston County Board of Commissioners and an owner of a licensed food service establishment in Livingston County. The board shall consist of at least three members.

**Imminent Hazard:** A condition at a food service establishment that requires immediate action to prevent endangering the health of people. Imminent or substantial hazards include, but are not limited to the following:

- Backup of sewage
- Failed sewage system
- Unsafe water supply
- Lack of the water supply
- Pest infestation
- Foodborne illness
- Lack of food safety knowledge

- Lack of electrical power
- Lack of adequate refrigeration
- Structural damage (fire, flood, etc.)

**Non-Compliance:** One or more of the following exists at a food service establishment:

- a. Imminent or substantial hazards exist.
- b. Un-corrected Priority and Priority Foundation violations exist.
- c. Chronic and/or Continuous Priority and Priority Foundation violations exist.
- d. Chronic and/or Continuous core violations exist
- e. Core violations are not corrected according to a compliance schedule.

**License Holder:** The entity that is legally responsible for the operation of the food service establishment including the owner, the owner's representatives, or other person operating under apparent authority of the owner possessing a valid license to operate a food establishment.

**Operating without a License:** A facility that meets the definition of a Food Service Establishment and operating without a valid Food Service License.

**Priority Item:** A provision in the Code whose application contributes directly to the elimination, prevention, or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard. These violations have a quantifiable measure to show control of hazards such as cooking, cooling, and handwashing.

**Priority Foundation Items:** A provision in the Food Code whose application supports, facilitates, or enables one or more Priority items. These violations include items that require the purposeful incorporation of specific actions, equipment, or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury, such as personnel training, infrastructure, or necessary equipment, HACCP plans, documentation or record keeping, and labeling.

**Risk Control Plan:** A written document developed by the establishment in cooperation with the department for the purpose of correcting a violation. A risk control plan should address what the problem is, why it is a problem, how it will be solved; as well as methods to ensure it does not occur again. Successful risk control plans are often developed with a team of people instead of individually. They involve training, teaching, and coaching staff on proper procedures. Risk control plans will be reviewed by department representatives to determine, if followed, that the risk control plan corrects the violation. (See Appendix B for a sample Risk Control Plan.)

**Temporary Food Service establishment:** A food service establishment which operates at a fixed location for a temporary period not to exceed fourteen (14) consecutive days.

**Unauthorized Construction:** If any person constructs or begins construction of a new food service establishment, or if any person constructs or begins a remodel of a portion of an existing food service establishment without an approved plan, the Health Officer and/or the LHD shall take action as provided in Section 3117 of the Food Law. If the Health Officer and/or the LHD determines that any person is constructing or remodeling a food service

establishment in violation of the provisions of this Food Code, the Health Officer and/or the LHD shall order the immediate cessation of the construction, alterations, conversions, or remodeling until the owner/licensee submits appropriate and acceptable plans and specifications to the Health Officer and/or the LHD.

## **SECTION II Evaluation Procedures**

A. A risk-based food safety evaluation is conducted to determine compliance with applicable laws and assess the Food Service Establishment's ability to control risks of foodborne illness. The evaluation includes a report of the findings relative to general sanitation, operational controls, sanitation standard operating procedures, facilities or structures, or general maintenance, food-handling policies and procedures, employee behaviors, conditions of the facility, "Person in Charge" and employee knowledge, food safety management systems, etc., The Center for Disease Control risk factors and biological, chemical and physical hazards associated with the facility are assessed. Most food service establishments are evaluated at a frequency of approximately 180 days.

B. A follow-up evaluation is a food safety assessment to verify correction of previously cited violations. The follow-up evaluation should not evaluate the entire food service establishment, but concentrate on previously cited violations. However, if additional violation(s) exist during the follow-up evaluation, those violations may be also cited. Priority and Priority Foundation violations must be corrected within 10 calendar days from the day the violation was initially cited.

C. Enforcement Follow-Up of a food service establishment conducted by LCHD to verify correction of a chronic or continuous violation. A re-inspection fee shall be required for enforcement follow-up. In addition, an office conference may be scheduled.

D. Food service establishments that meet compliance should continue to be evaluated at the frequency of approximately 180 days.

E. Food service establishments that do not meet compliance shall have a historical record review conducted to determine the appropriate level of enforcement action.

## **SECTION III Enforcement Authority**

- Public Act 92, Michigan Food Law
- The Michigan Public Health Code, Act 368, P.A. of 1978, Part 24, as amended
- The Livingston County Sanitary Code

## **SECTION IV MPR - Required Enforcement Action**

- Unauthorized Construction
- Operation Without a License
- Imminent Health Hazards
- Continuous Priority and Priority Foundation Violations
- Chronic Priority and Priority Foundation Violations

## **SECTION V Enforcement Procedures**

- a. If imminent hazards exist then proceed to Step 6 of Section VI.
- b. If Priority and Priority Foundation violation(s) exist and cannot be corrected during an evaluation then LCHD may proceed to Step 2, 3 or 4 of Section VI. If there has been a previous informal hearing on the matter, LCHD may proceed to Step 5 of Section VI.
- c. If un-corrected Priority and Priority Foundation violation(s) exist during a follow-up evaluation then LCHD may proceed to Step 2, 3 or 4 of Section VI. If there has been a previous informal hearing on the matter, LCHD may proceed to Step 5 of Section VI.
- d. If Chronic Priority and/or Priority Foundation violation(s) exist then the Director will be notified with a completed Administrative Action Request form. Enforcement activities may proceed to Step 1, 2, 3 or 4 of Section VI. If there has been a previous informal hearing on the matter, LCHD may proceed to Step 5 of Section VI.
- e. If Continuous Priority and/or Priority Foundation violation(s) exist then the Director will be notified. Enforcement activities may proceed to Step 1, 2, 3 or 4 of Section VI. If there has been a previous informal hearing on the matter, LCHD may proceed to Step 5 of Section VI.
- f. If Chronic Core violation(s) exist then the Director will be notified with a completed Administrative Action Request form. Enforcement activities may proceed to Step 1, 2, 3 or 4 of Section VI. If there has been a previous informal hearing on the matter, LCHD may proceed to Step 5 of Section VI.
- g. If Continuous Core violation(s) exist then the Director will be notified. Enforcement activities may proceed to Step 1, 2, 3 or 4 of Section VI. If there has been a previous informal hearing on the matter, LCHD may proceed to Step 5 of Section VI.
- h. If a food service establishment does not employ a certified manager as required under Section 2129 of Public Act 92, Michigan Food Law of 2000 as Amended, enforcement activities may proceed to Step 2, 3 or 4 of Section VI. If there has been a previous informal hearing on the matter, LCHD may proceed to Step 5 of Section VI.
- i. If the license holder interferes with the duties of LCHD then the Director will be notified with the Administrative Action Request and enforcement activities may proceed to Step 1, 2, 3, or 4 of Section VI. If there has been a previous informal hearing on the matter, LCHD may proceed to Step 5 of Section VI.
- j. If a food service establishment is operating with an expired license then LCHD shall enforce the guidelines written in the LCHD Fee Schedule. Enforcement activities may proceed to Step 3, 4 or 5 of Section VI.
- k. If a new food service establishment is operating without a license then proceed to Step 7 of Section VI.

l. If a temporary food service establishment is operating without a license then proceed to Step 7 of Section VI.

m. If a food service establishment is subject to license limitations, such as, limiting the extent of food preparation or the menu items then proceed to Step 8 of Section VI. A license holder is entitled to an informal hearing if license limitations are imposed.

n. If construction or remodeling is being conducted at a food service establishment without an approved plan or construction is not in accordance with the approved plan then proceed to Step 9 of Section VI.

o. If an unapproved, adulterated, unsafe or contaminated food source is identified then proceed to step 10 of Section VI.

## **SECTION VI Enforcement Steps**

**Step 1:** File review: A historical record review shall be conducted by LCHD staff and recommendations made to the Director to determine the appropriate enforcement procedures.

**Step 2:** Follow-up evaluation: A food safety assessment of a food service establishment conducted by LCHD to verify correction of previously cited violations. If it is determined that a food service establishment exhibits continued non-compliance, LCHD may continue follow-up evaluations and/or may proceed to enforcement Step 3 or 4 as appropriate.

**Step 3:** Compliance conference: A compliance conference is held for the purpose of discussing food safety procedures with the license holder. A compliance conference provides the opportunity to share food safety information and to discuss circumstances of all stakeholders. Statements, agreements and requirements of the food service establishment and health department are documented. The conference is intended to reach agreement on procedures that, if followed, will result in compliance with Food Law and Food Code. Conferences are preliminary to informal hearings.

**Step 4:** Informal hearing: An informal hearing is held for the purpose of determining whether there is sufficient evidence to limit food service operations or mandate compliance for specific violations.

**Step 5:** Formal hearing: A formal hearing is held for the purpose of determining whether a food service license should be suspended or revoked; or to determine whether an order from the health officer to suspend food service should be relieved. In addition, a permit holder may request a formal hearing if the permit holder is aggrieved by an order of the health officer or his agent.

- Step 6:** Order to cease all food service operations: An order to cease food service operations shall be complied with immediately. LCHD shall determine whether an administrative hearing must be held prior to the reopening of the food service establishment. Whether such a hearing will be required will depend on the nature of the hazard. For example, food establishment closure due to a power outage may not require an administrative hearing to reopen once power is re-established. However, pest infestation would require an administrative hearing prior to reopening.
- Step 7:** Order to cease all food service operations for license violations: The operator does not possess a food service license. LCHD shall order the operator to cease all food service operations. An order to cease food service operations shall be complied with immediately. Operations may not resume until the operator is in full compliance with all licensing requirements.
- Step 8:** License limitations: LCHD shall place restrictions on a food service license for the purpose of protecting the public health. The license holder shall be provided an opportunity for an informal hearing regarding the imposition of the limitation. Violations of license limitations should lead to Step 4, of Section V. The license holder may request a re-evaluation of the food service establishment for the purpose of removing the limitation and reinstating the full license.
- Step 9:** Construction or remodeling violations: LCHD shall order construction, alterations, conversions or operations to cease if work is performed without health department approval. Construction, alteration, conversion or operation shall cease until plans and specifications are submitted in writing and approved by LCHD.
- Step 10:** Order regarding the disposition of food: LCHD may order the food service establishment to hold, test, or destroy food products. Failure to comply with LCHD order may result in immediate closure of the food service establishment based on imminent or substantial hazard.

## **SECTION VII Compliance Tools**

- **Risk Control Plans:** A written document developed by the establishment in cooperation with the department for the purpose of correcting a violation. A risk control plan should address what the problem is, why it is a problem, how it will be solved; as well as methods to ensure it does not occur again. Successful risk control plans are often developed with a team of people instead of individually. They involve training, teaching, and coaching staff on proper procedures. Risk control plans will be reviewed by department representatives to determine, if followed, that the risk control plan corrects the violation. (See Appendix B for a sample Risk Control Plan.)
- **Standard Operating Procedures (SOPs):** Procedures specific to an operation that describe the activities necessary to complete tasks in accordance with the Food Code and Food Law. The procedures are used to train the staff members

responsible for the tasks. Three purposes for establishing SOPs are: to protect products from contamination from microbial, chemical, and physical hazards; to control microbial growth that can result from temperature abuse; and to ensure procedures are in place for maintaining equipment.

- **Warnings:** Warning issued by the sanitarian during the evaluation written in the comment section of the report. This may be a warning that the violation has occurred two times, and the third violation will initiate the formal enforcement process.
- **Administrative Action Requests:** A letter issued by the Director and sanitarian that lists the violations and establishes compliance requirements.
- **Fees / Fines:** LCHD may implement fees consistent with the LCHD Fee Schedule regarding costs of enforcement procedures and re-inspections.
- **Mandated Food Safety Consultants**
- **Increased Evaluation Frequencies**
- **Progressive Enforcement Procedures**

## Appendix A Administrative Action Request



### LIVINGSTON COUNTY HEALTH DEPARTMENT

2300 East Grand River Avenue, Suite 102

Howell, Michigan 48843-7578

(517) 546-9850

[www.lchd.org](http://www.lchd.org)

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#### PERSONAL/PREVENTIVE HEALTH SERVICES

P: (517) 546-9850

F: (517) 546-6995



#### ENVIRONMENTAL HEALTH SERVICES

P: (517) 546-9858

F: (517) 546-9853

[ESTABLISHMENT NAME]

[ADDRESS]

License #: 3147 [NUMBER]

[DATE]

To Whom It May Concern:

You are receiving this Administrative Action Request due to chronic and/or continuous Priority, Priority Foundation and/or Core Violation(s) during the inspection that took place on [DATE].

**Chronic Violation:** A specific violation that is documented on three (3) of the last five (5) routine inspections, but which need not be on consecutive inspections. Chronic violations do not include those items that have had two (2) consecutive routine inspections in compliance.

**Continuous Violation:** A specific violation that is observed during an evaluation, is documented, and persists on the next two routine and/or follow-up evaluations without correction. (Example: routine evaluation /follow-up evaluation /follow-up evaluation.)

#### Food Code/Law Violation(s):

[LIST VIOLATION NUMBERS AND DESCRIPTION]

#### Describe other significant reasons for this action:

This is the [LIST NUMBER] Administrative Action Request.

[LIST DATE AND VIOLATION NUMBER/DESCRIPTION]

According to the LCHD Enforcement Policy, an Enforcement Follow-up inspection is typically the next step in the procedure. An Enforcement Follow-up is a food safety assessment of a food service establishment conducted by the Health Department to verify correction of a chronic/continuous violation. A re-inspection fee shall be required for enforcement follow-up inspections. In addition an office conference may be scheduled.

**Health Department Decision:**

The recommendation at this time is to:

- Conduct an Enforcement Follow-up evaluation
  - An enforcement follow-up will be conducted within 90 days
  - A \$100 re-inspection fee will be assessed on your next year's license
- Create a risk control plan
- Other: \_\_\_\_\_

During the next evaluation if any of the chronic violations cited above continue or recur, a compliance conference will be held as the next step in the enforcement proceedings. The compliance conference fee is \$100. It is to your benefit to review your inspections and be proactive to ensure this does not occur.

\_\_\_\_\_  
Health Department Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Environmental Health Director

\_\_\_\_\_  
Date

## Appendix B Risk Control Plan



### LIVINGSTON COUNTY HEALTH DEPARTMENT

2300 East Grand River Avenue, Suite 102

Howell, Michigan 48843-7578

(517) 546-9850

[www.lchd.org](http://www.lchd.org)

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PERSONAL/PREVENTIVE HEALTH SERVICES

P: (517) 546-9850

F: (517) 546-6995



ENVIRONMENTAL HEALTH SERVICES

P: (517) 546-9858

F: (517) 546-9853

## RISK CONTROL PLAN

**Food Establishment:**

**Person in Charge/Manager:**

**Address:**

**Phone Number:**

**Inspection Date:**

**TO BE FILLED OUT BY THE INSPECTOR:**

**Describe the violation (Risk Factor):**

**Food Code Section Number:**

**TO BE FILLED OUT BY THE PERSON IN CHARGE:**

**Describe the problem. Why is this problem occurring?**

**How will you correct the problem?**

**Will staff need to be re-trained? Who will train them?**

**How will the corrective action be monitored? (logs, charts, visual monitoring of staff, etc.)**

**Who will be responsible to monitor it? How often?**

**Who will check that the monitoring was done? How often?**

**What will be done if the correction is not working to control the violation?**

**How will you communicate the results to the inspector?**

**Submitted by:** \_\_\_\_\_  
**Person in charge**

**Approved by:** \_\_\_\_\_  
**Inspector**

## Appendix C Compliance Conference, Informal & Formal Hearings

A **Compliance Conference** is a meeting between an establishment owner, or a designated representative, and department representatives for the purpose of reviewing the severity of observed violations, the need for correction and consequences of allowing violations to continue. In addition the conference is intended to reach agreement on procedures that, if followed, will result in compliance with Food Law and Food Code. Compliance conferences are preliminary to informal hearings. A compliance conference may be held for any or all of the following reasons:

1. A written request from licensee.
2. A chronic violation is found.
3. A risk control plan was not developed after a continuous violation is found.
4. Numerous and repeated core violations are found that impact the overall safety and sanitation of the establishment.
5. Lack of active managerial control is exhibited at the establishment.

An **Informal Hearing** is held to determine options and requirements to permanently correct violations. Compliance schedules and license limitations may be required to ensure compliance and to protect public health.

The requirement for an informal hearing shall be noted on an evaluation report if health department observes practices or conditions that warrant the enforcement procedures and steps. The permit holder shall be notified of the time, place and date for the informal hearing. The informal hearing notice shall state the reasons for the hearing. If the license holder fails to attend the informal hearing, the hearing officer may proceed with the informal hearing and make decisions in the absence of the license holder.

At the informal hearing, the hearing officer will hear testimony from LCHD and the license holder. If the alleged violations are substantiated, the hearing officer shall encourage agreement or mandate correction options and requirements.

The food service establishment shall correct and maintain compliance with mandated corrections. If the food service establishment fails to correct or maintain compliance with mandated corrections, LCHD may order a formal hearing for the purpose of suspending, revoking or limiting the food service establishment's food service license.

If the informal hearing is requested by the license holder, the hearing officer may order an evaluation or other options to determine the validity of the license holder's complaint. The hearing officer shall issue a summary of the informal hearing.

Either upon request to the Health Officer by, or on behalf of, any license holder or the license holder's representatives whose license has been revoked, or if a food service establishment has failed to comply with the requirements set forth in an Informal Hearing, a **Formal Hearing** shall be afforded as soon as possible, within a period of time not to exceed fifteen (15) working days, provided that this shall in no way affect any order to cease food service operations or revocation of license in advance of said hearing. The hearing shall be conducted during the normal working hours of the Livingston County Department of Public Health at a time and place designated by the Health Officer. The Hearing Board shall consist of at least three members, including the Health Officer or his designated

representative, a member of the Livingston County Board of Commissioners, and an owner of a licensed food service establishment in Livingston County. The Health Officer shall preside over the hearing of events.

The hearing shall be held in compliance with the Michigan Administrative Procedures Act, MCL 24.201 et seq. The permit holder shall be provided written notification of the Formal Hearing and an opportunity to be heard before the Hearing Board. The permit holder or permit holder's representative may attend the hearing with witnesses, and may be represented by legal counsel. In the event the permit holder, or his/her representative, fails to attend the hearing, the Hearing Board may proceed with the hearing and make its decision in the absence of the permit holder.

If one or more of the alleged violations are substantiated, the Hearing Board shall determine whether and under what stipulations the affected license shall be reinstated or shall be further suspended, or revoked, and shall notify the permit holder in writing of the determinations. The decision of the Hearing Board following the hearing shall be final unless appealed to a court of competent jurisdiction.

Subject to the permit holder's right of an opportunity for a hearing before the Hearing Board, any license issued pursuant to the provisions of the Michigan Food Law of 2000 may be suspended or revoked by the Hearing Board upon a finding that the permit holder failed to comply with the Food Code.

#### FORMAL HEARING PROCEDURE

1. NOTIFICATION OF FORMAL HEARING: Notification to permit holder of a Formal Hearing shall be sent by certified/return receipt requested mail or hand-carried to permit holder/operator of facility and shall include the following.
  - A. A statement that the hearing is being held pursuant to the Food Code, if applicable, and the Michigan Administrative Procedures Act.
  - B. Time, date, and place of the Formal Hearing.
  - C. A statement that the food service establishment is in violation of food sanitation provisions adopted pursuant to the Food Code, if applicable, and rules promulgated pursuant thereto.
  - D. List of violations/deficiencies, item by item or statement of involved issues.
  - E. Dates of previous routine and follow-up inspections.
  - F. Notice that the permit holder may have legal counsel present.
  - G. Request for at least 48 hours written notice if rescheduling is necessary.
  - H. Notice that a failure to appear or reschedule may result in revocation of license to operate a food service establishment.

## 2. FORMAL HEARING STATUTORY PROCEDURES:

### A. Hearing

1. Notice to permit holder shall include date, time, and place of the hearing, as well as the address and telephone number of the Livingston County Department of Public Health.
2. A hearing may be adjourned if the permit holder sends a written notification of inability to attend the hearing no less than 48 hours before the scheduled hearing date. If the permit holder fails to appear without giving prior notice, the hearing may proceed and a decision may be rendered in the permit holder's absence.
3. The Livingston County Department of Public Health shall prepare an official record of all hearings, which shall include:
  - a. Notices, inspection reports, correspondence and intermediate rulings.
  - b. Questions and offers of proof, objections and rulings thereon.
  - c. Evidence presented.
  - d. Proposed findings.
  - e. Any decisions, opinions, or orders, by the officers presiding at the hearing and by the Livingston County Department of Public Health.

### B. Legal Representation & Witnesses:

1. The permit holder and the Livingston County Department of Public Health may have legal representation and witnesses testify on their behalf.
2. The Hearing Board may require attendance and the giving of testimony by witnesses and the production of books, papers and other documentary evidence.
3. A party may cross-examine a witness, including the author of a document prepared by, on behalf of, or for use by the Livingston County Department of Public Health and offered in evidence. A party may submit rebuttal evidence.
4. The Livingston County Department of Public Health shall make all records in a case, including statements by Livingston County

Department of Public Health witnesses, available to opposing parties for use on cross-examination.

C. Evidence:

1. Parties shall be given an opportunity to present oral and written arguments on issues of law, policy and facts.
2. All evidence to be presented at a hearing shall be entered only at the time of the hearing. No evidence will be added or deleted after the hearing.
3. Irrelevant, immaterial or repetitious evidence may be excluded. Objections to offers of evidence may be made and shall be noted in the record. Hearsay evidence and testimony may be allowed, but the weight will be adjusted accordingly.
4. A deposition may be used in lieu of other evidence, when taken in accordance with the Michigan Court Rules.
5. Documentary evidence may be received in the form of a copy or excerpt. All documentary evidence incorporated by reference must be made available for examination by the permit holder or his/her representative or legal counsel.

D. Decisions:

1. Decision of the Hearing Board shall be rendered within 30 days of the hearing and shall be final concerning the administrative hearing process.
2. Final decision in a case must be read into the record, or put into written form and copies sent to all concerned parties and attorneys of record. A final decision or order shall include findings of fact and conclusions of law.
3. An appeal may be sought through a court of competent jurisdiction as provided by law.

3. FORMAL HEARING, SEQUENCE OF REPRESENTATIONS: The sequence of presentation at hearing shall be as follows:

- A. Call to order.
- B. Date, time and reason for hearing stated.
- C. Introductions. All names, positions and titles, representatives and reasons for attendance of individuals present at the hearing shall be placed on the record. The Hearing Officer shall then question Board

Members as to any conflict of interest in the case before the Board.

D. Hearing format:

1. Proceedings are to be documented and kept available as a matter of public record. Records shall not be transcribed unless requested by a party who shall pay for the transcription of the portion requested.
2. The Livingston County Department of Public Health staff shall present their case, allowing opportunities for cross-examination by the permit holder or the permit holder's representative.
3. The permit holder or the permit holder's representative shall present his/her case, allowing an opportunity for cross-examination by the Livingston County Department of Public Health staff, or the Livingston County Department of Public Health representative.
4. Both the Livingston County Department of Public Health and the permit holder shall have an opportunity to clarify their respective positions.
5. Hearing Board members may ask questions at any time.
6. The Hearing Board may deliberate on the testimony and evidence for no more than 30 days in meetings open to the public. The Hearing Board must render a decision within 30 days.
7. Final decisions of the Hearing Board shall be announced with all parties present in a meeting open to the public. A decision may be made for the Livingston County Department of Public Health or the permit holder on each allegation.

## Appendix D CDC Factors Contributing to Foodborne Illness

### Center for Disease Control and Prevention Factors Contributing to Foodborne Illness

1. Food from Unsafe Sources
2. Poor Personal Hygiene
3. Inadequate Cooking
4. Improper Holding/Time and Temperature
5. Contaminated Equipment/Protection from Contamination

The CDC has identified the following [Food Code provisions](#) as especially important in reducing norovirus and other causes of illness in restaurants and other retail food establishments:

- Excluding ill food service staff from working until at least 24 hours after symptoms such as vomiting and diarrhea have ended.
- Prohibiting bare hand contact with ready-to-eat food.
- Requiring at least one employee in a food service establishment to be a certified food protection manager.
- Requiring food service employees to wash their hands.

## Appendix E Food Safety Knowledge

Based on the risks inherent to the food operation, LCHD may request the person in charge demonstrate to knowledge of food safety. The person in charge shall demonstrate knowledge by explaining requirements of the food code. Demonstration of food safety knowledge can be conducted by the following:

- (1) Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;
- (2) Explaining the responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease;
- (3) Describing the symptoms associated with the diseases that are transmissible through food;
- (4) Explaining the significance of the relationship between maintaining the time and temperature of potentially hazardous food and the prevention of foodborne illness;
- (5) Explaining the hazards associated with the consumption of undercooked or raw animal origin food;
- (6) Stating the required food temperatures and times for safe cooking of potentially hazardous food;
- (7) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of potentially hazardous food
- (8) Describing the relationship between the prevention of foodborne illness and the management and control of the following:
  - (a) Cross contamination;
  - (b) Bare-hand contact with ready to eat food;
  - (c) Hand-washing, and
  - (d) Maintaining the food service establishment in a clean condition and in good repair;
- (9) Describing food identified as major allergens and the potential symptoms;
- (10) Explaining the relationship between food safety and providing equipment that is:
  - (a) Sufficient in number and capacity, and
  - (b) Properly designed, constructed, located, installed, operated, maintained, and cleaned;
- (11) Explaining correct procedures for cleaning and sanitizing;
- (12) Identifying the source of water used and measures taken to ensure that it remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections;
- (13) Identifying poison or toxic materials in the food service establishment and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to law;

(14) Identifying Priority and Priority Foundation control points in the operation from purchasing through sale or service that when not controlled may contribute to the transmission of foodborne illness and explaining steps taken to ensure that the points are controlled in accordance with the requirement;

(15) Explaining the details of how the person in charge and food employees comply with the HACCP plans if it is required;

(16) Explaining the responsibilities, rights, and authorities assigned by law to the:

- (a) Food employee
- (b) Person in charge,
- (c) Regulatory authority; and

(17) Explaining how the person in charge and food employees comply with reporting responsibilities and exclusion and restriction of food employees.

## Appendix F Environmental Health Director and Health Officer Endorsement

**Implementation Date:** April 1, 2015

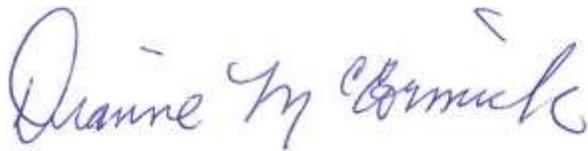
**Updated:** April 17, 2017

Endorsed by:

A handwritten signature in black ink that reads "Matt Bolang". The signature is written in a cursive style with a large, looping "B" at the end.

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Matt Bolang, M.S.A., REHS, Environmental Health Director  
Livingston County Health Department

A handwritten signature in blue ink that reads "Dianne McCormick". The signature is written in a cursive style with a large, looping "C" at the end.

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Dianne McCormick, M.S.A., R.S., Health Officer  
Livingston County Health Department