

## Division of Hotels and Restaurants

### Public Food Service Establishment

# VARIANCE APPLICATION PROCEDURE

The Division of Hotels and Restaurants reviews and approves building plans for public food service establishments according to Chapter 509.032(2)(d), Florida Statutes. The department may grant a variance from construction standards that are less restrictive than those provided by law or rule.

**Criteria to Request a Variance** – You may request a variance from construction standards if:

- The variance shall not adversely affect the health of the public; and
- No reasonable alternative exists for the required construction; and
- The applicant did not cause the deviation intentionally.

**Types and Costs of Variances** – There are two (2) types of variance procedures provided in law and the fees are non-refundable:

- **Routine:** Florida law allows the Division up to ninety (90) days to respond. The fee is \$150.
- **Emergency:** Florida law requires the Division to respond within thirty (30) days. The fee is \$300.

**How to Apply** – Submit a written request, appropriate fee and equipment layout of the establishment to the central plan review office at the following address.

Department of Business and Professional Regulation  
Division of Hotels and Restaurants  
1940 North Monroe Street  
Tallahassee, Florida 32399-1011

Include the following items in your written request:

1. A statement that the variance will not adversely affect the health of the public, that no reasonable alternative exists for the required construction and that you did not cause deviation intentionally.
2. Information concerning all items that do not meet the minimum licensing requirements and a statement explaining that meeting the minimum code requirement will cause a hardship (e.g., My establishment does not have an accessible public bathroom for customers and there is not enough room to install one).
3. Description of the procedure or structure that will be used in place of the minimum code requirement you do not meet that will ensure proper operation of your establishment and protect the health of the public (e.g., My customers will use the bathrooms located in the adjacent business). Be sure to include any signed agreements or other documents supporting your information (including a site plan showing the location of any facilities involved and the hours of operation for any other businesses involved).
4. Include a contact name, address, phone number and e-mail address (if available) so we may contact you easily in case we need additional information.

**Approval/Denial of Request** – We may approve or deny your variance request.

1. If we approve the variance request and you have a plan submitted to plan review, the plan reviewer will complete the processing of your plan. You may request a licensing inspection when you have met all requirements and are ready to open.
2. If we deny the variance request, you will need to meet all minimum requirements before we can issue you a license.