

FOOD ESTABLISHMENT VARIANCE APPLICATION FORM

Follow all instructions below to ensure a complete application and to avoid delays in the application review process. Nebraska Department of Agriculture (NDA) approval is required prior to implementation of any specialized processes for which the variance is requested, and prior to making any changes to menu, equipment, procedures, or ownership that may impact a variance request that has already been approved.

APPLICATION STEPS

- 1) Fill out and submit application (please ensure it is legible and complete).
- 2) NDA will review the application and the requestor will receive confirmation.
- 3) **Fees will need to be paid in order to receive confirmation.**

DOCUMENTATION OF PROPOSED VARIANCE AND JUSTIFICATION

(Reference 8-103.11 of the NE Food Code for further details.)

- 1) A statement of the proposed variance of the code requirement citing relevant code section numbers;
- 2) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant code sections will be alternatively addressed by the proposal; and
- 3) A HACCP plan, if required, as specified under 8-201.13(A) that includes the information specified under 8-201.14 as it is relevant to the variance requested.
- 4) Required records must be retained for a minimum of 90 days.

CONFORMANCE WITH APPROVED VARIANCE

(Reference 8-103.12 of the NE Food Code for further details.)

If the variance is approved as specified in 8-103.10, or a HACCP plan is otherwise required as specified under 8-201.13, the permit holder must:

- 1) Comply with the HACCP plans and procedures that are submitted and approved as the basis for the modification or waiver; and
- 2) Maintain and provide to the regulatory authority records that demonstrate that the plans and procedures are being routinely followed.

PERIODIC REVIEW OF VARIANCE

During routine inspections, the area sanitarian will review operating procedures and records to ensure that the variance is being implemented as approved and that a health hazard or nuisance has not occurred.

If a HACCP plan is required, the area sanitarian will also verify that the establishment is following the validated HACCP plan.

WITHDRAWAL OF APPROVED VARIANCES

If at any time the area sanitarian or NDA determines that the variance has or will negatively impact public safety, the variance holder will be notified of the decision of withdrawal and immediately stop practicing the variance process.

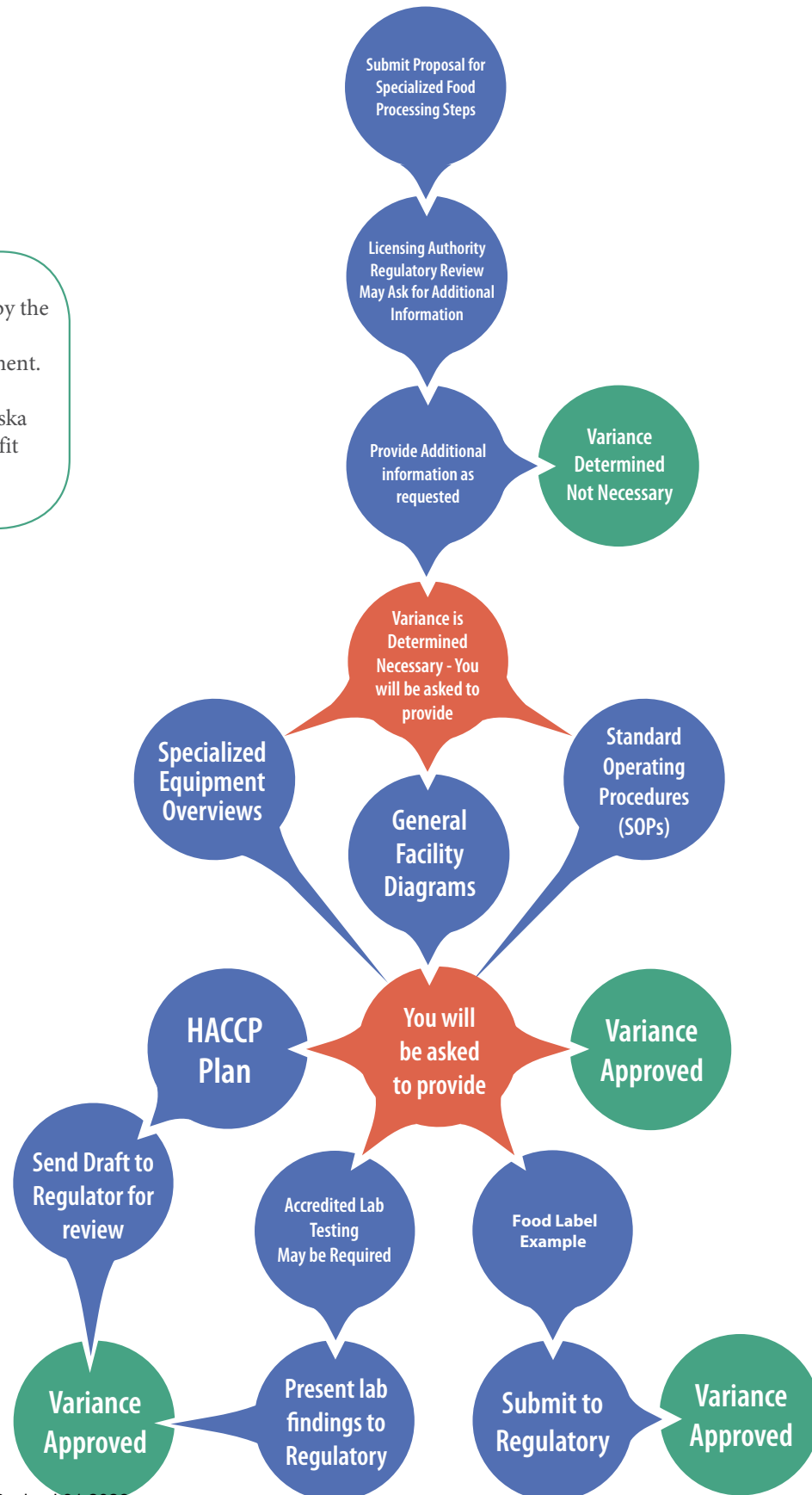
If the food establishment wants to voluntarily withdraw their variance, the area sanitarian must be contacted, and the area sanitarian or NDA will provide documentation of a voluntary withdraw of variance.

Variance Proposal Flow Chart

Please note not all applications may follow entire process, please keep copies for every step.

Original image was provided by the Michigan Department of Agriculture & Rural Development.

Edits were made by the Nebraska Department of Agriculture to fit state policy.



Food Establishment Information

Please note, a variance regarding operation or equipment in use prior to new regulations, any construction or modifications associated with equipment and/or processes, or a change of ownership, will withdraw the variance and will require the equipment and/or processes to become compliant with the current regulations. [Send the completed application to AGR.FoodSafety@nebraska.gov.](mailto:AGR.FoodSafety@nebraska.gov)

BUSINESS INFORMATION

Business Name:

Permit #:

Business Address:

City:

State:

Zip Code:

Business Phone:

Business Fax:

OWNERSHIP INFORMATION

Owner ID:

Owner/Corporation Name:

Owner Address:

City:

State:

Zip Code:

Owner Phone:

Email:

MAILING INFORMATION

Name:

Address:

City:

State:

Zip Code:

☐ Initial Variance Request

☐ I have previously applied for a variance:

☐ A similar variance has been issued to another food establishment under the same ownership (provide a copy of the variance). Each location needs a separate variance.

Check the appropriate code(s) that apply:

3-502.11(A) – Smoking food as a method of food preservation rather than as a method of flavor enhancement

3-502.11(B) – Curing food

3-502.11(C)1 – Using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement

3-502.11(C)2 - Using food additives or adding components such as vinegar to render a food so that it is not time/temperature control for food safety

3-502.11(D) – Packaging time/temperature control for food safety using a reduced oxygen packaging method

3-502.11(E) – Operating a molluscan shellfish life-support display tank offering for human consumption

3-502.11(F) – Custom processing animals that are for personal use as food and not for sale or service in a food establishment

3-502.11(G) – Preparing food by another method that has been determined by the regulatory authority to require a variance

3-502.11(H) – Sprouting seeds or beans

Other (e.g., operation or equipment in use prior to adoption of new regulations)

If 'Other' was checked, provide a clear explanation of how the facility and management will alternatively address the risk to public health and safety:

Submit the following items as part of the proposal for special processing variance:

Food Product Description/Recipe

The information contained in these documents is confidential, privileged and only for the information of the intended recipient and may not be used, published or redistributed.

Recipe/Product

Name:

Yield/Portion Size:

Ingredients

Item

Amount/Quantity

Supplier/Source

Provide a detailed explanation on the process(procedure)/product/equipment that will be covered by the variance application:

By signing this document, you are agreeing to follow the regulations in the Food Code to maintain the variance being requested and agreeing to maintain required records for a minimum of 90 days.

HACCP plans have separate record retention policies

APPLICANT SIGNATURE:

DATE:



THE REGULATORY AUTHORITY MAY REQUEST FOR ADDITIONAL INFORMATION.

BELOW ARE COMMONLY REQUESTED DOCUMENTS.

Use this page as a resource document.

Variance Application – supporting documentation is commonly needed to show how your request will not be a public health concern.

Standard Operating Procedures SOP's

- ☐ hand washing
- ☐ personal hygiene
- ☐ preventing bare hand contact with ready-to-eat food
- ☐ employee illness
- ☐ purchasing food from approved sources
- ☐ cleaning and sanitizing food contact surfaces
- ☐ cross-contamination prevention
- ☐ ware washing
- ☐ date-marking
- ☐ using time (not time and temperature) as a method to control bacterial growth
- ☐ thawing
- ☐ cooking
- ☐ potentially hazardous food
- ☐ cooling
- ☐ reheating
- ☐ hot holding
- ☐ cold holding
- ☐ supervisor and food employee training plan
- ☐ other _____, _____, _____

You should have SOP's as they are required in your plan review process.

******Note: Processed meats, juice and seafood products have additional regulatory requirements**

For wholesale – please discuss with your regulatory authority before proceeding

General Facility and Specialized Equipment Overview

- ☐ provide a detailed floor plan of processing area and entire facility, including all equipment (must be drawn to scale)
- ☐ indicate what other food processes and activities that are happening at the same time in the same place
- ☐ attach a list of all equipment that will be used to prepare food item with manufacturer's specification sheet
- ☐ if any equipment requires calibration, include policy for calibration
- ☐ indicate details of water supply and wastewater supply facility

Provide a HACCP plan (additional instruction form) Accredited Commercial Lab Analytical Test

Results for Validation

- ☐ shelf life study and determination
- ☐ pH identification for non-TCS
- ☐ water activity for identification of non-TCS
- ☐ percent salt
- ☐ process authority documentation
- ☐ Microbial Challenge Study (NACMCF)

Labeling

- ☐ provide a sample of the proposed label and/or packaging that will be used for product
- ☐ policy for how tracking will be done through lot codes and date codes

Resource Links

Click on the box with text to be redirected to the associated web-page

[Food Processing Authorities Directory](#)

[Nutrition Facts Label Image - FDA](#)

[Food Labeling and Nutrition Guidance - FDA](#)

[FSIS Sanitation Standard Operating Procedures Example](#)

[Food Standards and Labeling Book - USDA](#)

[USDA Meat Guidance - Jerky, Pork, Sausage](#)

[Date Marking Laws and Guidance](#)



OFFICIAL USE ONLY – DO NOT WRITE BELOW THE LINE

Prior to an official/final review, ensure all necessary fields have been filled out and all documentation indicated above has been submitted.

Application Status (approved, denied, voluntary withdrawal, regulatory withdrawal):

Upon approval of variance, indicate final Food Code reference number that is being waived -

Food Code reference number:

Notes:

****Keep this document for your records****

Nebraska Department of Agriculture
Food Safety & Consumer Protection

Job Title:

Signature:

Date:

Local Regulatory Partner:

Department:

Job Title:

Date:

Signature:

Department:

Job Title:

Date:

Signature: