



Request for Variance



Request for Variance

Establishment Name: _____

Address: _____

Permit Number: _____

Contact Name: _____

Daytime Phone Number: _____ **Alternate Number:** _____

Email Address: _____

Maricopa County Environmental Services Department (“Department”) Variance Requirements:

1. Facility owners/operators shall not initiate a variance required food process pursuant to the Maricopa County Environmental Health Code (MCEHC) Chapter VIII, Section 2., Regulation 1., § 3-502.11 and § 3-502.12, or any other affected MCEHC section prior to acquiring Department variance approval.
The MCEHC is available online at <http://esd.maricopa.gov>.
2. The facility owner/operator shall prove the MCEHC variance modification will not cause a public nuisance, health hazard, or safety risk.
3. The facility owner/operator may inform the Department of any perceived hardship pertaining to an item found by the Department to be out of compliance, when an alternative method or work offered conforms to the general intent of the MCEHC, and the literal code interpretation for that item creates an unusual or unreasonable burden.
4. The facility owner/operator must submit a separate request for each variance issue and the facility owner/operator must pay the variance processing fee pursuant to the MCEHC fee schedule.
5. Per MCEHC Chapter 1 Section 5, Maricopa County collects a fee for each variance application review. The fee is non-refundable and must be submitted prior to variance application review. Failure to provide the fee will result in the denial of the application.

Note: Please review your Regulatory Bill of Rights on the final page of this document.

VARIANCE APPLICATION PROCESS

1. Steps required to obtain a variance are as follows:
 - a.) Submit a complete variance application along with applicable application fee(s).
 - b.) Provide documentation that supports the applicants claim that a hazard or nuisance will not be created by granting the variance.
 - c.) Obtain Official Department Approval prior to conducting the process.
2. Once submitted, the Department has up to 30 days to determine if the application and supporting information is administratively complete. If determined the application is incomplete, a notice of deficiency will be sent to the applicant requesting additional information. At this time, the timeframe clock will be suspended until the applicant provides the Department with the requested information.

Once administratively complete, the Department will evaluate the submittal for compliance with applicable codes. The Department has up to 60 additional days to make a final determination on the status of the permit. If a comprehensive request for additional information is made by the Department, the timeframe clock will be suspended until the applicant provides the Department with the requested information.

3. If there are questions about the application process or assistance is needed please contact the HACCP/Variance Coordinator at 602-506-6972.
4. The Department's website is located at <http://esd.maricopa.gov>
You can also reach the HACCP/Variance Coordinator at the following email account ecarlson@mail.maricopa.gov or by fax at 602-506-5141.
5. You may receive a clarification from the Department of its interpretation or application of a statute, ordinance, regulation, delegation agreement or authorized substantive policy statement as provided in A.R.S. §11-1609.

Signature

Date

Type of Variance Being Requested

	Live Molluscan Shellfish Tank		On-site Slaughter of Seafood
	Reduced Oxygen Packaging		Re-packing of Shellfish Lots
	Fermentation of Food		Smoking of Food
	Food Additives		Curing of Food
	Mobile Food Establishment		HACCP Plan Review
	Sprouting Seeds or Beans		Open Air Food Service
	Equipment and Structural*		

***If the requested variance request is due to a hardship, describe the hardship in detail:**

Fees

<u>Variance Type</u>		<u>Fee</u>
1. Variance for a Mobile Food Establishment:	_____	\$60.00
2. Variance for a Fixed Establishment:	_____	\$200.00
3. HACCP Plan Review:	_____	\$205.00

I hereby certify that the above information is correct. I understand until such time as this variance is granted, I must cease operations that require a variance. I understand that by submitting this application and the fee in no way guarantees my variance will be approved. Also, the Department may initiate action to withdraw my variance if it is granted and an unforeseen health hazard occurs as a result of the variance. A violation associated with an approved variance may result in action being initiated by the Department to withdraw any granted variance, at which time a hearing may be requested pursuant to the MCEHC. Upon a withdrawal, the variance operation will immediately cease and desist until another variance is obtained.

Print Name	Signature	Date
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A.R.S. §11-1602: REGULATORY BILL OF RIGHTS

A. TO ENSURE FAIR AND OPEN REGULATION BY COUNTIES, A PERSON:

1. IS ELIGIBLE FOR REIMBURSEMENT OF FEES AND OTHER EXPENSES IF THE PERSON PREVAILS BY ADJUDICATION ON THE MERITS AGAINST A COUNTY IN A COURT PROCEEDING REGARDING A COUNTY DECISION AS PROVIDED IN A.R.S. §12-348.
2. IS ENTITLED TO RECEIVE INFORMATION AND NOTICE REGARDING INSPECTIONS AS PROVIDED IN A.R.S. §11-1603.
3. IS ENTITLED TO HAVE A COUNTY NOT BASE A LICENSING DECISION IN WHOLE OR IN PART ON LICENSING CONDITIONS OR REQUIREMENTS THAT ARE NOT SPECIFICALLY AUTHORIZED AS PROVIDED IN A.R.S. §11-1604.
4. MAY HAVE A COUNTY APPROVE OR DENY THE PERSON'S LICENSE APPLICATION WITHIN A PREDETERMINED PERIOD OF TIME AS PROVIDED IN A.R.S. §11-1605.
5. IS ENTITLED TO RECEIVE WRITTEN OR ELECTRONIC NOTICE FROM A COUNTY ON DENIAL OF A LICENSE APPLICATION THAT:
 - (A) JUSTIFIES THE DENIAL WITH REFERENCES TO THE STATUTE, ORDINANCE, REGULATION, DELEGATION AGREEMENT OR AUTHORIZED SUBSTANTIVE POLICY STATEMENTS ON WHICH THE DENIAL IS BASED AS PROVIDED IN A.R.S. §11-1605.
 - (B) EXPLAINS THE APPLICANT'S RIGHT TO APPEAL THE DENIAL AS PROVIDED IN A.R.S. §11-1605.
6. IS ENTITLED TO RECEIVE INFORMATION REGARDING THE LICENSE APPLICATION PROCESS AT THE TIME THE PERSON OBTAINS AN APPLICATION FOR A LICENSE AS PROVIDED IN A.R.S. §11-1606.
7. MAY INSPECT ALL ORDINANCES, REGULATIONS AND SUBSTANTIVE POLICY STATEMENTS OF A COUNTY, INCLUDING A DIRECTORY OF DOCUMENTS, AT THE OFFICE OF THE COUNTY OR ON THE COUNTY'S WEBSITE AS PROVIDED IN A.R.S. §11-1607.
8. UNLESS SPECIFICALLY AUTHORIZED, MAY EXPECT COUNTIES TO AVOID DUPLICATION OF OTHER LAWS THAT DO NOT ENHANCE REGULATORY CLARITY AND TO AVOID DUAL PERMITTING TO THE MAXIMUM EXTENT PRACTICABLE AS PROVIDED IN A.R.S. §11-1604.
9. MAY FILE A COMPLAINT WITH THE BOARD OF SUPERVISORS CONCERNING AN ORDINANCE, REGULATION OR SUBSTANTIVE POLICY STATEMENT THAT FAILS TO COMPLY WITH A.R.S. §11-1602.
10. AS PROVIDED IN A.R.S. §11-1604, IS ENTITLED TO HAVE A COUNTY NOT REQUEST OR INITIATE DISCUSSIONS ABOUT WAIVING ANY OF THE RIGHTS PRESCRIBED IN A.R.S. §11-1602.



Maricopa County Environmental Services Department
Environmental Health Division

1001 N. Central Ave. #150 Phoenix, AZ 85004 phone: (602)506-6824

<http://esd.maricopa.gov>



Environmental Services
Department

Notice

A.R.S § 11-1604. Prohibited acts by county and employees; enforcement; notice

- A county shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule, ordinance or delegation agreement. A general grant of authority does not constitute a basis for imposing a licensing requirement or condition unless the authority specifically authorizes the requirement or condition.
- Unless specifically authorized, a county shall avoid duplication of other laws that do not enhance regulatory clarity and shall avoid dual permitting to the maximum extent practicable.
- This section does not prohibit county flexibility to issue licenses or adopt ordinances or codes.
- A county shall not request or initiate discussions with a person about waiving that person's rights.
- THIS SECTION MAY BE ENFORCED IN A PRIVATE CIVIL ACTION AND RELIEF MAY BE AWARDED AGAINST A COUNTY. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, DAMAGES AND ALL FEES ASSOCIATED WITH THE LICENSE APPLICATION TO A PARTY THAT PREVAILS IN AN ACTION AGAINST A COUNTY FOR A VIOLATION OF THIS SECTION.
- A COUNTY EMPLOYEE MAY NOT INTENTIONALLY OR KNOWINGLY VIOLATE THIS SECTION. A VIOLATION OF THIS SECTION IS CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO THE COUNTY'S ADOPTED PERSONNEL POLICY.
- THIS SECTION DOES NOT ABROGATE THE IMMUNITY PROVIDED BY SECTION 12-820.01 OR 12-820.02.