



DPH Process for Considering Variance and Waiver Requests from Georgia’s Food Service Rules and Regulations

The Department of Public Health (DPH) upon petition may grant variances and waivers to specific rules and regulations which establish standards for facilities or entities regulated by the department. The following is the process for variance/waiver requests from Rules governing food service establishments in Georgia.

- A. Any person adversely affected by a Rule of Chapter 511-6-1 may petition the Department to allow a variance or waiver from such a Rule by completing a "Request for Variance from the Rules and Regulations for Food Service, Chapter 511-6-1" form and submitting it to the attention of the Food Service Program Director at:

Attention: Georgia Department of Public Health
Attn: Food Service Program Director, Environmental Health Section
2 Peachtree Street NW, 13th Floor
Atlanta, Georgia 30303

- B. The variance form must include, at a minimum, the following information:
1. Name of person (or Petitioner), requesting variance or waiver address, phone number, contact person, attorney, or person representing the petitioner;
 2. The Rule and specific subsection number(s) from which a variance or waiver is requested must be identified. If more than one Rule is to be considered, each Rule will be listed on the petition and its associated issue addressed separately;
 3. The specific facts of substantial hardship which would justify a variance or waiver from the Rule listed within the petition. Substantial hardship is defined as a “significant, unique, and demonstrable economic, technological, legal, or other type of hardship to the person requesting a variance or waiver which impairs the ability of the person to continue to function in the regulated practice or business”. O.C.G.A. § 50-13-9.1(b)(1). Note: address each Rule for which a variance is being requested.
 4. The alternative standards which the petitioner agrees to meet;
 5. Supporting documentation that such alternative standards will afford adequate protection for the public health, safety, and welfare;
 6. The reason why the variance or waiver requested would serve the purpose of the underlying statute; and
 7. The duration of the variance/waiver requested which is to be requested for a one year time frame. Upon proof of compliance with the variance, the variance may be renewed..

NOTE: A copy of the request form can be found by clicking [Request for Variance from the Rules and Regulations Food Service Chapter 511-6-1](#).



Procedures for Processing Petitions:

- A. Upon the receipt of a petition for a variance or waiver, the Food Service Program Director (or designee) will review the petition to determine if it is complete and contains all the information required. If additional information is required, the petitioner will be contacted and informed about the need to provide such information and that the petition is not complete;
- B. When the Food Service Program Director (or designee) determines that a petition is complete, the request along with comments will then be forwarded to the Department's Legal Counsel Staff for processing. Once received by the Department's Legal Counsel Staff, processing of the request could take approximately 20 to 60 days or more to complete depending on the complexity and nature of the request;
- C. The decision of the Department to grant or deny a variance will be posted on the Georgia Secretary of State's website located at:
<http://services.georgia.gov/sos/sos-rw/searchHome.do> ;
- D. If granted by the Department, variance requests are for a time period certain as set by the Department. Requests which affect an entire class of facilities will be processed through the Board of Public Health and shall also be for a time certain, as determined by the Board; and
- E. The Food Service Program Director (or designee) will notify the petitioner of the Department's decision as soon as he or she has been notified by the Department. If the request is denied, the Food Service Program Director (or designee) will notify the Petitioner of any further opportunity for review.

III. Variance Request Legal Limitations.

- A. No variance or waiver shall be sought or authorized when:
 - 1. Any Rule or Regulation has been adopted to implement or promote a federally delegated program; or
 - 2. The granting of a variance or waiver by the Department would be harmful to the public health, safety, or welfare.

IV. Additional Information:

For more information not found on the Department's Environmental Health website or within this document, please call the Environmental Health Section at: 404-657-6534.