

## Variance Request Form

Date: \_\_\_\_\_

Retail Food Establishment Permit No.: \_\_\_\_\_

### Retail Food Establishment & Owner Information

Retail Food Establishment Name: \_\_\_\_\_

Retail Food Establishment Address: \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

Name of Owner: \_\_\_\_\_

Contact Information of the Owner:

Office Phone No.: \_\_\_\_\_ Ext: \_\_\_\_\_ Cell Phone No. : \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

### Variance Information

Name of Each Specialized Process of Food or Equipment \_\_\_\_\_

Type of Specialized Process (check one): **Please note that each process requires a separate submission form**

- Smoking Food - Preservation       Curing Food       Using Food Additives – for preservation  
 2-Barrier Reduced Oxygen Packaging (ROP)     Cook-Chill     Sous Vide     Custom Processing on shared equipment  
 Sprouting Seeds or Beans       Molluscan Shellstock Tank       Other \_\_\_\_\_

### Modifications or waivers to the Texas Food Establishment Rules require justification & documentation

- a. Describe the proposed variance: \_\_\_\_\_  
\_\_\_\_\_
- b. Give an example of what you would like to do: \_\_\_\_\_  
\_\_\_\_\_
- c. Write the Section Number(s) of Texas Food Establishment Rules the process will affect: \_\_\_\_\_
- d. Attach all appropriate documentation that will help explain how public health hazards & nuisances will be addressed & prevented (lab testing, statistics, etc.):  
\_\_\_\_\_  
\_\_\_\_\_

----- **Office Use Only** -----

Application Fee: \$100.00

Payment Method: \_\_\_\_\_

Date Payment Received: \_\_\_\_\_

Additional Documentation Provided (attach copies): \_\_\_\_\_

The following information is needed: \_\_\_\_\_

Variance Approved

Variance Not Approved

Plan Reviewed By \_\_\_\_\_

Print \_\_\_\_\_

Date \_\_\_\_\_

## ENVIRONMENTAL HEALTH CONSIDERATIONS FOR SUBMISSION OF A VARIANCE REQUEST

### **What is a variance?**

A variance is a written document issued by the regulatory authority, Northeast Texas Public Health District (NET HEALTH) which authorizes a modification or waiver of one or more of the requirements of the Texas Food Establishment Rules (TFER) or the District Order 2023-1. A variance may be granted by the regulatory authority if in the opinion of the regulatory authority a health hazard or nuisance will not result from the variance. If a variance is granted, the regulatory authority shall retain the required documents for the food establishment.

### **When is a variance request required?**

**A variance request is required to be submitted when a food establishment would like to make a modification or waiver to the requirements of the TFER or District Order 2023-1. Example: (A food establishment wants to allow Reduced Oxygen Packaging)**

In addition, FDA Food Code Section 8-201.13 requires a food establishment to obtain a variance for specialized processing methods from the department as specified in FDA Food Code 3-502.11 of this title before:

- Smoking food as a method of preservation rather than as a method of flavor enhancement;
- Curing food;
- Using food additives or adding components such as vinegar: to preserve/render non-potentially hazardous food;
- Packaging food using a reduced oxygen packaging method except as specified under paragraph (2) of this subsection where a barrier to Clostridium botulinum in addition to refrigeration exists;
- Operating a molluscan shellfish life-support system display tank used to store & display shellfish that are offered for human consumption;
- Custom processing animals that are for personal use as food & not for sale or service in a food establishment;
- Sprouting seeds or beans in a retail food establishment; or
- Preparing food by another method that is determined by the regulatory authority to require a variance

### **Requirements for submitting a variance request?**

In order to be considered for a variance to these rules, the establishment must submit a statement of the proposed variance that includes the section of the rules related to the modification, rationale of how the public health hazard will be addressed, & a HACCP plan if required by these rules. These requirements are also stated below. The Environmental Health Department's staff will review all the information submitted & retain the documents in the regulatory authority's file for the food establishment.

1. A statement of the proposed variance of the rule requirement citing relevant rule section numbers. Explain what you would like to do & the section of the law it affects.
2. An analysis of the rationale for how the potential public health hazards & nuisances addressed by the relevant rule sections will be alternatively addressed by the proposal. Provide information regarding your new process & how it will still meet the intent of these regulations.
3. A HACCP Plan if required must include necessary contents of the HACCP plan. The details regarding the contents for the HACCP plan & specifications can be found in FDA Section 8-201.14. Please submit a copy of your food establishment's HACCP Plan along with your "variance request" if you are required to have a plan based on these rules.

A "variance request" submitted to the Northeast Texas Public Health District (NET HEALTH), Environmental Health Department that lacks "*part or all*" of the information stated above will not be approved. Please feel free to submit documents & photographs that will help our department verify that a health hazard or nuisance will not result from the variance. NET HEALTH will provide the submitter with the department's decision regarding the waiver request.

The TFER & District Order 2023-1 can be found on our website at <http://www.mynethealth.org> or call the Environmental Health Department at (903)535-0037 for additional information.

### **Revocation of Approved Variance.**

If at any time the provisions contained within the approved variance are violated or if the equipment or food processing procedure is found to cause a public health nuisance or pose a threat to the health and safety of the public then the variance granted can be revoked and the current Texas Food Establishment Rule or NET HEALTH District Order will become effective.