

REQUESTS FOR VARIANCE

- I. An application for a variance to Board of Health regulations must be submitted to the Board of Health secretary at least 40 days prior to a public hearing (NAC 439.200).
 - A. The Secretary to the Board is the Administrator of the Health Division.
 - B. The public hearing is before the Board of Health, usually at the next regularly scheduled meeting.
 - C. The application should be on a form available from the Health Division. (Note: The application is not required to be a specified form; however, the form will assist the applicant with the task of providing the information necessary for staff analysis and Board of Health consideration. Incomplete applications will be rejected.)
 1. The application must be in writing.
 2. The application must be accompanied by the appropriate fee. (NAC 439.210)
- II. Upon receipt of an application for variance:
 - A. The Secretary to the Administrator will assign a case number and assume custody of the check until such time as the applicability of the variance request is determined.
 - B. Once applicability has been determined, the Secretary of the Board of Health will assign appropriate staff to perform an analysis of the variance request.
 - C. Staff analysis will contain the following in a format specified by the Secretary of the Board (Attachment II):
 1. A statement of determination of eligibility to apply for a variance pursuant to NAC 439.200, with notation of what makes the application eligible.
 2. A staff recommendation for the Board's consideration
 - a. The recommendation should be in a form that would facilitate a proper motion by a Board member.
 - b. The wording of the recommendation may need to be formulated with the Assistance of the Deputy Attorney General to ensure completeness.
 - c. Any conditions recommended by staff should be included in this section.
 3. A listing of all applicable regulations and a copy of the relevant text of the regulation(s).
 4. A summary of written comments submitted by the applicant and/or others.
 5. A summary of the factors and circumstances considered by staff in determining recommendation.

6. The name and title of the staff person who will be presenting the Health Division perspective at the public hearing.

D. Staff will prepare a “Findings of Fact/Conclusions of Law” document at the same time as other analysis.

1. The “Findings of Fact/Conclusion of Law” will reflect the recommendation in the analysis.

2. The “Findings of Fact/Conclusion of Law” will be developed in concert with the Deputy Attorney General.

E. One copy of the analysis and the “Findings of Fact/Conclusions of Law” will be delivered to the Executive Assistant in Administration at least 15 days prior to the hearing.

1. The Executive Assistant will review for completeness.

2. The Administrator will review.

F. Within three days of receipt by Administration, the analysis will be returned to staff for modification, if necessary and compilation of sixteen copies of the variance package.

G. Sixteen copies of the analysis and the “Findings of Fact/Conclusions of Law” are to be returned to Administration within one working day.

H. The Secretary to the Board of Health will mail the variance request and staff analysis to the members of Board ten days before the scheduled meeting.

III. Public notice of the request for variance must be published “not less than 10 days” prior to the public hearing (NAC 439.220).

IV. The staff analysis must be mailed to the applicant “at least five days before the hearing” (NAC 439.230).

V. During the Board of Health meeting, designated staff will present the staff position to the Board.

A. If the Board concurs with the staff recommendation, the “Findings of Fact/Conclusions of Law” will be signed by the Chairman and mailed to the applicant “within 14 days after the hearing” by the Secretary to the Board (NAC 439.250).

B. If the Board modifies or rejects the staff recommendation, the new “Findings of Fact/Conclusions of Law” that mirror the Board’s decision will be drafted by staff in concert with the Deputy Attorney General. This document will be returned to the Secretary of the Board within five working days of the hearing. The Secretary to the Board will secure the signature of the Board Chairman and mail a copy of the “Findings of Fact/Conclusions of Law” (decision of the Board) to the applicant “within 14 days after the hearing.”

C. Once the “Findings of Fact/Conclusions of Law” is mailed to the applicant, staff will Distribute copies to any other appropriate parties.