

**Alaska Department of Health  
Division of Behavioral Health**

**GENERAL VARIANCE APPLICATION for RESIDENTIAL LICENSING  
AS 47.32 and 7AAC 10.9500**

<b>Facility Type:</b> <input type="checkbox"/> Residential Child Care Facility <input type="checkbox"/> Residential Psychiatric Treatment Center <input type="checkbox"/> Maternity Home <input type="checkbox"/> Adult Assisted Living Home		
<b>Specialization, if applicable for Children's Residential Facilities:</b> <input type="checkbox"/> Emergency shelter care <input type="checkbox"/> Pregnant and parenting adolescents <input type="checkbox"/> Emergency shelter care for runaway <input type="checkbox"/> Substance Use treatment for Children <input type="checkbox"/> Boarding school <input type="checkbox"/> Wilderness and Adventure experience <input type="checkbox"/> Supervised transitional living		<b>Population Type if an Assisted Living Home:</b> <input type="checkbox"/> Those who are elderly, who have dementia or who have a physical disability , but who are not chronically mentally ill <input type="checkbox"/> Those with Mental Health Issues and/or Developmental Disabilities
Name of Facility: _____		Facility Phone: _____
Capacity: _____      Current license dates: _____ to _____      License number: _____		
Administrator: _____		
Facility Physical Address: _____		
Facility Mailing Address: _____		
Name of Individual completing the request on behalf of the administrator: _____		
Facility Contact Phone: _____      Facility Contact Fax: _____		
7 AAC 10.9510. Request for a general variance. A request must contain the following (attach additional pages as necessary): Please see page 2 for specific regulatory language)		
(1) Which Regulation or Statute are you requesting a variance from that cannot be met:		
(2) Provide a description of the reason your facility is unable to meet the requirement, a description of how your facility is not or will not be in compliance, and the extent to which compliance with the requirement will impose any substantial economic, technological, programmatic, legal, or medical hardship on the entity or recipients of services:		
(3) What is the period of time variance requested:		

(4) What are your proposed alternative ways to meet the requirement:

(5) How will the health, safety and welfare of the residents will be protected if the variance is approved:

(6) What is your plan to achieve compliance before variance expires:

(7) What assurance are there that the conditions do not present an imminent danger to the health, safety, or welfare of recipients of services:

(8) If your request for a variance involves fire safety or another state or municipal requirement, you must attach evidence that the request has been reviewed and approved by the appropriate authority. (Check one)

☐ Yes, it is attached ☐ No, it is not attached ☐ N/A, this requirement does not apply to me

If you checked yes please provide a list of attached items

(9) Provide a list of names of the recipients of services who would be affected by the variance, and the names and addresses of any representatives of those recipients of services.

(10) For an Assisted Living Home, assurance that the notice requirements of 7 AAC 10.9515 (See FAQ) will be met. (Check one)

☐ Yes, I provided Notice ☐ No, I did not provide notice ☐ N/A, this requirement does not apply to me

Please attach a copy of the notice you provided. (Check one)

☐ Yes, it is attached ☐ No, it is not attached ☐ N/A, this requirement does not apply to me

(11) If requested by the department attach any additional information requested by the department: (Check one)

☐ Yes, it is attached ☐ No, it is not attached ☐ N/A, this requirement does not apply to me

If you checked yes, please provide a list of attached items

\_\_\_\_\_  
Signature of Administrator or Designee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Administrator or Designee

## General Variance Application Instructions

1. Identify the regulation you are requesting the variance for. (example - 7 AAC 75.210 (c) (2))
2. Explain why you are not able to meet the regulations you identified in #1.
3. Identify the amount of time you would like this variance to be approved for. (The Department may not approve a variance beyond the Homes current licensing period. When the license expires, the variance will need to be renewed with the Home's license. This will require you to submit a new variance request)
4. Identify any alternative ways the regulation you identified in #1 could be complied with.
5. Since the Home is requesting a variance for the regulation in #1, the Home needs to submit a plan that explains how they will ensure the health, welfare, and safety of the residents will be protected.
6. Submit a plan showing how the Home intends to comply with the regulation identified in #1 and therefore will no longer need the variance. (Keep in mind there are some variances where the Home may never be able to comply with the regulation identified in #1 – talk with your Licensing Specialist if you have questions about this)
7. Submit an assurance that the conditions that would be present, since the Home cannot comply with the regulation identified in #1, would not present an imminent danger to the health, safety, or welfare of the residents.
8. If the regulation identified in #1 is related to fire safety, or is also required by another state of Municipal agency, then the Home needs to submit documentation showing those other agencies have reviewed and approve the Homes request for a variance of the regulation identified in #1.
9. Submit a list of the residents this variance request would affect.
10. Submit documentation that all the residents and/or guardians have or will be informed of the Home's variance request, what the variance is for, and how to contact the department to provide comment.
11. If the Department has asked you to submit anything else, you will list it here.

**PURPOSE:** 7 AAC 10.9500. Purpose and applicability

**PROCEDURE:**

7 AAC 10.9510. Request for a general variance. An entity seeking a general variance under 7 AAC 10.9500 – 7 AAC 10.9535 must submit to the department, on a form supplied by the department, a request for a general variance as required by this section. A request must contain the following:

- (1) the requirement from which the variance is sought;
- (2) the reasons why the entity is unable to comply with the requirement, a description of how the entity is not in compliance, and the extent to which compliance with the requirement will impose any substantial economic, technological, programmatic, legal, or medical hardship on the entity or recipients of services;
- (3) the period of time for which the variance is requested;
- (4) the proposed alternative means of satisfying the purpose of the requirement for which the variance is sought;
- (5) a statement as to how the health, safety, and welfare of recipients of services will be protected during the period of the variance;
- (6) the plan for achieving compliance before the variance expires;
- (7) assurance that the conditions at the entity do not present an imminent danger to the health, safety, or welfare of recipients of services;
- (8) if the request for a variance involves fire safety or another state or municipal requirement, evidence that the request has been reviewed by the appropriate authority;
- (9) for a licensed entity, the names of the recipients of services who would be affected by the variance, and the names and addresses of any representatives of those recipients of services; the requirements of this paragraph do not apply to a child care facility subject to 7 AAC 57 unless this information is requested by the department;
- (10) for an assisted living home, assurance that the notice requirements of 7 AAC 10.9515 will be met;
- (11) any additional information requested by the department to determine the effect of a variance on the health, safety, and welfare of recipients of services. (Eff. 6/23/2006, Register 178)

7 AAC 10.9515 Notice Requirements for General Variance Requests for Assisted Living Homes (a) If an assisted living home is requesting a general variance for a state statutory or regulatory licensing requirements, the home shall deliver to each affected resident or the resident's representative, no later than five days after submitting a request for a variance, a

- (1) Copy or summary of the request; and
  - (2) Notice that states
    - (A) That the resident or representative has the right to submit comments to the department regarding the request; and
    - (B) The date by which any comments must be received by the department.
- (b) The home shall provide to the department a statement indicating compliance with (a) of this section.
- (c) The department will consider any timely comments received under this section in determining whether to grant a general variance.

7 AAC 10.9520. Evaluation of a request for a general variance

7 AAC 10.9525. Grant or denial of a general variance. (a) The department's decision to grant or deny a request for a general variance will be issued in writing and will be delivered to the person who made the request.

7 AAC 10.9530. Posting of a general variance. (a) If the department grants a request for a general variance, the entity shall post a copy of the general variance decision in a conspicuous place, with the entity's license as required by AS 47.32.080, during the period the variance is in effect, and shall make it available to any person who wishes to review it. A general variance remains in effect for the duration stated, unless the department revokes the variance