

# Food Code Fact Sheet #3

What you should know about the Code

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/FOODSAFETY

## Variations

### OAR 333-150-0000, CHAPTER 3-502.11

A food establishment shall obtain a variance from the regulatory authority as specified in § 8-103.10 and under § 8-103.11 before: <sup>Pf</sup>

- (A) Smoking food as a method of food preservation rather than as a method of flavor enhancement; <sup>Pf</sup>
- (B) Curing food; <sup>Pf</sup>
- (C) Using food additives or adding components such as vinegar; <sup>Pf</sup>
  - (1) As a method of food preservation rather than as a method of flavor enhancement; <sup>Pf</sup> or
  - (2) To render a food so that it is not potentially hazardous; <sup>Pf</sup>
- (D) Packaging food using a reduced oxygen packaging method except where the growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* are controlled as specified under § 3-502.12; <sup>Pf</sup>
- (E) Operating a molluscan shellfish life-support system display tank used to store or display shellfish that are offered for human consumption; <sup>Pf</sup>
- (F) Custom processing animals that are for personal use as food and not for sale or service in a food establishment; <sup>Pf</sup>
- (G) Preparing food by another method that is determined by the regulatory authority to require a variance; <sup>Pf</sup> or
- (H) Sprouting seeds or beans. <sup>Pf</sup>

### PUBLIC HEALTH REASONS:

Specific food processes that require a variance have historically resulted in more foodborne illness than standard processes. These types of operations may require the person in charge and food employees to use specialized equipment and demonstrate specific competencies. The variance requirement is designed to ensure that the proposed method of operation is carried out safely.

Restaurants are constantly evolving and experimenting with different styles of cooking and preparing food for their customers. This may include food preparation techniques that do not meet the Food Sanitation Rules.

Because of the hazards associated with certain foods and processes, restaurants must apply for a variance before starting any specialized processing as described in OAR 333-150-0000 Chapter 3-502.11.

These processes present a significant health risk if the facility is not following specific operational procedures for each batch of product.

Some examples are:

- Curing with nitrates
- Smoking food for preservation
- Vacuum-packaging cooked foods
- Acidifying foods
- Sprouting seeds or beans on site

We have information available online at: <http://public.health.oregon.gov/HealthyEnvironments/FoodSafety/Pages/variance.aspx> to help operators find more information and get started through the variance process. Keep in mind variances are not intended for facilities that do not

meet rules. They are for facilities that can show that the rules present an undue burden to their operation and that their proposed alternative will provide public health protection equal to or greater than the measures provided for in the current rules.



**Dry fermented sausages are one type of meat curing that would require a variance.**

**All variance applications must be approved before the procedure is put into practice.**

**Variance application  
cost is \$500 per process**