



Fire Department Variance Request policy

PURPOSE:

The Bureau of Fire Prevention (BFP) Development Services Division reviews construction projects in partnership with the Planning and Building Divisions of PBCE. Once plans or permits are in the review process, a variance may be required for fire architecture, sprinkler, alarm, or hazardous materials systems. The [Variance application](#) is available on our website. The application is submitted by appointment through the SJ-eplans portal ([Fire Development Services Appointment Center](#)).

Note: The intent of using the term “Variance” by BFP instead of Alternate means of protection / Alternate materials, design, and methods of construction / Performance-based design alternatives, as indicated in the California Fire Code (CFC), is to differentiate between the Building Department’s AMMR review process and BFP’s variance review process. For clarification, the term “Variance” is synonymous with “AMMR” for the Fire Department. The goal is to improve customer understanding regarding which process is required.

The variance process is not meant as a tool to forgo a requirement in the CFC, San Jose Municipal Code (SJMC), or applicable standard. The variance process allows applicants and design professionals to submit modifications that will meet the intent of the CFC, SJMC, and applicable standards, but do not meet the strict letter of an applicable code section. Each variance application shall have an acceptable justification for compliance with an alternate material, design, or method of construction that will meet the intent of the CFC, SJMC, or applicable standard.

The variance process is not utilized if the project will ultimately meet all applicable Code sections and standards at the time of final permit sign-off by a Fire Code official. If a project cannot meet the code requirements at the time of review, such as when the installation is currently going through a listing process, conditional approval may be granted to the applicant if the applicant assumes all risk and responsibility associated with providing documentation supporting adherence to applicable code requirements and standards prior to final permit signoff.

Note: The variance process is not used if the project will meet the requirements set forth in codes and standards at the time of final sign-off.

BACKGROUND:

Fire Code Reference

The Fire Marshal has the authority to grant modifications in individual cases where there are practical difficulties involved with carrying out the provisions of the CFC, SJMC, or applicable standards. The applicant must demonstrate that there is a special individual reason, that makes the strict letter of the code impractical, and that the proposed modification is in accordance with the **intent** and **purpose** of the applicable code or standard. As such, modifications shall not lessen the health, life, and fire safety requirements, or quality, strength, effectiveness, fire resistance, or durability of structural requirements. (CFC 104.9 and 104.10)

An applicant may propose to install a material or utilize a design methodology or a construction method that is not specifically prescribed in the code. Applications are approved when the Fire Marshal determines that the alternative is satisfactory. Appropriate justification shall be provided to demonstrate that the proposed alternative complies with the intent of the code; and is equivalent, for the purpose intended, in terms of quality, strength, effectiveness, fire resistance, durability, and safety. Supporting data shall consist of valid research and reports from approved sources. Tests shall be conducted in accordance with recognized and accepted test standards.

The cost associated with a Variance:

The variance review requests will incur additional fees assessed on an hourly basis, regardless of the outcome of the application (approved or denied). Fees will be charged per the current fee schedule. Assessed fees shall be paid before the continuation of the Fire Plan Check process.

CONCLUSION:

The Bureau of Fire Prevention strives to provide excellent customer service to ensure timely plan/permit review of new and existing projects. The variance process is aimed at providing flexibility to applicants and design professionals who wish to request modifications to prescribed codes and standards that meet the intent and purpose of applicable CFC, SJMC, and standards.

For any questions, please contact the Bureau of Fire Prevention at 408-535-7750 or sjfdpermitspecialist@sanjoseca.gov

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