

LEGISLATION

Safety Codes Act

SUBJECT: Section 38 - Variances

(see also STANDATA CEC-2)

Guidelines on Variances Issued by a Safety Codes Officer

Under the provisions of Section 38 of the Safety Codes Act, a safety codes officer (SCO) may issue a variance from established standards if the SCO is “. . . of the opinion that the variance provides approximately equivalent or greater safety performance with respect to persons and property as that provided for by this Act.” Unless requested by the owner of the thing, process, or activity being varied, a SCO may choose to not issue a variance where safety performance is not a factor.

Who can apply for a variance?

The person ultimately responsible for the thing, process or activity being varied should apply for the variance. This person is normally the owner of the installation or equipment. Occasionally an owner may authorize someone to represent him/her in these matters. Nevertheless, procedures should be in place to ensure that the owner is aware of the application for, and the issuance of, a variance.

A SCO should not issue a variance without confirming that the owner, or the owner's authorized representative, understands and agrees with the variance.

What is a variance?

A variance is permission in writing to deviate from a required practice or code rule.

Is the “special permission” referenced in the Canadian Electrical Code and other provincial regulations considered a variance?

Where a code rule or regulation allows for “special permission” or “deviation” (i.e., Rule 6-104 of the Canadian Electrical Code), a SCO must grant the special permission or deviation under a variance. The alternative allowed for by the code or regulation is considered a deviation from normal practice and therefore a variance by definition. The application for deviation must be in writing and the applicant must satisfy a SCO that the alternate action provides equivalent or greater safety performance. Once the SCO grants the variance (deviation, special permission, postponement, etc.), he or she must report it to the Administrator (see sample notification form attached).

Why is a variance issued?

A person may require a variance to use alternate practices not recognized in the codes, or to permit the installation and use of unapproved electrical equipment in a specialized application.

When and where may a Safety Codes Officer issue a variance?

A SCO may issue a variance only when the owner or the owner's authorized representative can demonstrate that they are not compromising safety. The officer may only issue a variance for a specific situation on a specific project within the officer's *Designation of Powers* and terms of employment.

Note: Section 38 of the Safety Codes Act recognizes that a SCO may issue a variance for any thing, process or activity. However, Section 32 allows limits to be placed on a SCO's powers through the officer's designation and terms of employment. (e.g., An accredited municipality or corporation may restrict all but a senior SCO from issuing certain types of variances.)

A SCO should take extra precautions when considering a variance. It is essential that the owner provide adequate documentation by a competent technical specialist that assures the variance provides equivalent or superior safety performance.

How is a variance processed?

To initiate the variance process, the owner (or the owner's authorized representative) must apply in writing to a SCO within the appropriate jurisdiction. The SCO will review the request along with accompanying documentation and provide a decision to the applicant. The SCO may request additional documentation to support the request.

The owner is responsible for documenting the full particulars regarding the variance and maintaining a permanent record for future reference. The SCO will issue a variance in writing and register the variance (see sample notification form on page 4 of this bulletin) with the Technical Administrator by submitting the following information:

1. Date of Issue
2. The name of the issuing SCO including certification and designation numbers
3. The SCO's employer
4. The name of the accredited jurisdiction or, for a non-accredited area, the name of the municipality in which the variance is issued
5. The owner's name, address and postal code and the name, address and postal code of the owner's authorized representative where applicable
6. The project location, as a civic address or legal description
7. A brief description of the installation including the reason for the variance and any conditions
8. Code and the code rule being varied

In situations where a SCO accepts special equipment under variance, the owner is also responsible for permanently marking the equipment with the following information:

- Name of Manufacturer
- Indication that it was accepted under a variance
- Any electrical information required by the SCO

Why must a variance be registered?

The Safety Codes Act allows a person to request a search for variances and outstanding orders. Apart from searches, the technical councils and administrators use the information to identify the need for possible revisions to codes and standards or to issue a province-wide variance.



Issued by:	Issue Date	Name of Safety Codes Officer	Certification #	Employer:
			Designation #	
	<p style="text-align: center;">Accredited Municipality, or _____ Name of Accredited Municipality</p> <p>On behalf of: Accredited Corporation, or _____ Name of Accredited Corporation</p> <p style="text-align: center;">Municipal Affairs (non-accredited areas) _____ Name of Non-Accredited Municipality</p>			

Issued to:	Owner Information:			
	Name _____		Contact Person _____	
	Mail Address _____		Telephone _____	
			Fax _____	
	Owner's Authorized Representative Information (when variance application is handled by other than owner)			
	Name _____		Contact Person _____	
Mail Address _____		Telephone _____		
		Fax _____		

Location	Municipal Location			
	# and Street/Avenue _____		and/or Lot _____ Block _____ Plan _____	
	or Legal Description		Other Descriptive Information	
LSD or Part of Sec.(NE,SE,NW,SW) _____ Sec. _____ Twp. _____ Rge. _____ West of ? M. _____		Bldg. Name, site description, etc. _____		

Details	Description of Variance		

Name of Code/Standard _____		Section/Part _____	Rule # _____