

Joe Lombardo
Governor



Richard Whitley,
MS
Director

**DEPARTMENT OF
HEALTH AND HUMAN SERVICES**

 **NEVADA DIVISION of PUBLIC
and BEHAVIORAL HEALTH**



Cody Phinney,
MPH
Administrator

Ihsan Azzam,
Ph.D., M.D.
Chief Medical
Officer

NOTICE OF PUBLIC HEARING
ROOTS INDIAN RESTAURANT AND BAR IS REQUESTING A VARIANCE, # 779, FROM THE NEVADA STATE BOARD OF HEALTH REGULATIONS.

NOTICE IS HEREBY GIVEN THAT ROOTS INDIAN RESTAURANT AND BAR located at 420 USA PARKWAY, MCARRAN NV 89437 has requested a variance from Nevada Administrative Code (NAC) 446.582 (2) "Toilets Rooms, Number and Accessibility"

A public hearing will be conducted on March 7, 2025, at 9:00 am by the Nevada State Board of Health to consider this request. This meeting will be held in person and online.

In person meeting locations:

- Southern Nevada Health District (SNHD)
Red Rock Trail Rooms A and B
280 S. Decatur Boulevard; Las Vegas, Nevada 89107
- Nevada Division of Public and Behavioral Health (DPBH)
Hearing Room No. 303, 3rd Floor
4150 Technology Way; Carson City, Nevada 89706

Join from a computer using the Microsoft Teams meeting link:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZWE1NGZjMDAtM2JmZi00NjVjLWExMzYtNTRjZDFkZGRmY2Iz%40thread.v2/0?context=%7b%22Tid%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22Oid%22%3a%22768e443d-3be6-48f0-9bb0-7e72f1276b8d%22%7d

Join by Phone:

(775) 321-6111

Phone Conference ID: 679 573 018#

ROOTS INDIAN RESTAURANT AND BAR 420 USA PARKWAY, MCARRAN NV 89437, is requesting a variance from NAC 446.582 (2) which states:

"A minimum of one employee restroom is required. Men's and women's restrooms are required and must include at least one urinal in the men's restroom for facilities that allow the on-site consumption of alcohol."

The authority of the State Board of Health to consider and grant a variance from the requirements of a regulation is set forth at NRS 439.200 and NAC 439.200 – 439.280.

Persons wishing to comment upon the proposed variance may appear at the scheduled public hearing or may submit written testimony at least five days before the scheduled hearing to:

Secretary, State Board of Health
Division of Public and Behavioral Health
4150 Technology Way, Suite 300
Carson City, NV 89706

Anyone wishing to testify for more than five minutes on the proposed variance must petition the Board of Health at the above address. Petitions shall contain the following: 1) a concise statement of the subject(s) on which the petitioner will present testimony; 2) the estimated time for the petitioner's presentation.

This notice has also been posted at the following locations:

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (DPBH), 4150 TECHNOLOGY WAY, CARSON CITY, NV

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH WEBSITE:

<https://dpbh.nv.gov/Boards/BOH/Meetings/Meetings/>



MEMORANDUM

DATE: 1/27/2025

TO: Dr. Jon Pennell, Chairman
State Board of Health

FROM: Cody Phinney, Administrator
Nevada State Board of Health

RE: Variance Request #779, Roots Indian Restaurant for Variance of NAC 446.582 (2), "Toilet Rooms: Number and Accessibility"

REGULATIONS

Nevada Administrative Code (NAC) 446.582 (2) states as follows: "A minimum of one employee restroom is required. Men's and women's restrooms are required and must include at least one urinal in the men's restroom for facilities that allow the on-site consumption of alcohol."

STAFF REVIEW

On December 14, 2024, Roots Indian Restaurant and Bar ("Applicant") submitted a request for variance from the requirements of NAC 446.582(2) for the installation of a urinal in the men's restroom because the restroom is undersized for a urinal and the restroom still maintains American's with Disabilities Act (ADA) compliance.

On December 12, 2024, the Division of Public and Behavioral Health (DPBH), Environmental Health Section (DPBH-EHS) consulted with the owners to determine code compliance. DPBH-EHS informed the owners of the requirements found in NAC 446.582 (2). Applicant informed DPBH-EHS that it inquired with contractors into the possibility of installing a urinal in the men's restroom to meet the code; however, the cost to perform the work to demolition and install new walls was cost prohibitive to their business.

This facility is a restaurant and bar with maximum capacity of 22 persons and 22 total seats. The Uniform Plumbing Code, Table 422.1 which has been adopted by reference in the food code allows one men's water closet and one women's water closet is acceptable for an establishment of this type and size. The Lyon County Building Department approved the plans for construction under equivalent local regulations.

EXCEPTIONAL AND UNDUE HARDSHIP

Applicant states strict application of NAC 446.583 (2) would cause an exceptional financial hardship. Denial of the variance application would require Applicant to either demolish and replace the current bathrooms or install an ancillary bathroom just for a urinal. The Applicant has already gone to the expense of ensuring the rest of the building is up to code.

DEGREE OF RISK TO PUBLIC HEALTH

There is little to no risk to the public health in allowing Applicant to serve alcohol for on-site consumption without the addition of a urinal. They have standard operating procedures in place to ensure that the water closets and restrooms will be sanitized on a regular basis.

INTENT OF THE REGULATIONS

The intent of NAC 446.582 is to provide adequate, sanitary toilet facilities which are necessary for the proper disposal of human waste, which carries pathogenic microorganisms, and for preventing the spread of disease by flies and other insects.

PUBLIC COMMENT RECEIVED

Notice of the hearing was posted on the DPBH website at <https://dpbh.nv.gov/Boards/BOH/Meetings/Meetings/> and at the 4150 Technology Way office in Carson City, NV by February 5, 2025. The DPBH is not aware of any objections to this variance by any local authorities, and no public comments have been received to date.

STAFF RECOMMENDATION

DPBH-EPH staff recommends the State Board of Health Variance Request #779, as it does find strict application of NAC 446.582 (2) would result in exceptional or undue hardship on Applicant. With approval of Variance Request #779, Applicant agrees to the following:

1. If the water closets in the restrooms at any time fails or becomes otherwise inoperable that Applicant will cease operation, close for business, and notify the Division.
2. If Applicant closes due to failure or inoperability of the toilet facilities, it must remain closed until the Division approves the restaurant to reopen.

PRESENTER

Mark Ports, Public Health Rating and Survey Officer, DPBH-EHS



NEVADA STATE BOARD OF HEALTH
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Please check the appropriate box that pertains to the NAC for which you are requesting a variance.

Division Administration
(NAC 439, 441A, 452, 453A, & 629)

Health Care Quality & Compliance
(NAC 449, 457, 459 & 652)

Child, Family & Community Wellness
(NAC 392, 394, 432A, 439, 441A, & 442)

Office of State Epidemiology
(NAC 440,450B, 452, 453, 453A, & 695C)

Public Health & Clinical Services
(NAC 211, 444, 446, 447, 583, & 585)

Date: 1 2 / 1 4 / 2 0 2 4

Name of Applicant: Mandeep Kaur

Phone: 916-995-2081

Mailing Address: 8368 Almadine Drive

City: Sacramento

State: CA

Zip: 95829

We do hereby apply for a variance to
chapter/section 446.582 (2) the Nevada
Administrative Code (NAC). (For example: NAC 449.204)

Title of section in
question: 446.582 (2); a urinal must be installed in order to serve alcohol

Statement of existing or proposed conditions in violation of the NAC:

446.582(2): A minimum of one employee restroom is required. Men's and
women's restroom are required and must include at least one urinal in
men's restroom for facilities that allow the on-site consumption of alcohol.



NEVADA STATE BOARD OF HEALTH
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Date of initial operation (if existing): _____

ATTENTION: Please read this section closely. Your request for variance will be examined against these criteria:

Any person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgement of a substantial property right may apply for a variance from a regulation. (NAC 439.200(1))

1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
 - (a) There are circumstances or conditions which:
 - (1) Are unique to the applicant;
 - (2) Do not generally affect other persons subject to the regulation;
 - (3) Make compliance with the regulation unduly burdensome; and
 - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
 - (b) Granting the variance:
 - (1) Is necessary to render substantial justice to the applicant and enable him to preserve and enjoy his property; and
 - (2) Will not be detrimental or pose a danger to public health and safety.

2. Whenever an applicant for a variance alleges that he/she/they suffers or will suffer economic hardship by complying with the regulation, they must submit evidence demonstrating the costs of compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable. (NAC 439.240)

Therefore, it is important for your variance request to be as complete as possible. It is your responsibility to attach documentation supporting your variance request.

Statement of degree of risk of
health

We take the health and safety of our customers and employees seriously and are fully committed to maintaining a clean, sanitary, and safe environment. We have a sanitation plan in place, including regular cleaning of all restroom facilities, and we ensure that the restroom is fully stocked and maintained at all times. The absence of a urinal in our men’s restroom does not pose any health risks or dangers to public safety. The existing restroom layout with the toilet and sink meets the functional requirements for patrons and employees. As mentioned, when the door is closed between the two fixtures, the toilet serves as the same hygienic function as a urinal, ensuring patrons have proper access to restroom facilities.



NEVADA STATE BOARD OF HEALTH
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Please state in detail the circumstances or conditions which demonstrate that:

1. An exceptional and undue hardship results from a strict application of the Regulation:

We are a small, independent restaurant and bar, and the cost of installing a urinal would place an undue financial strain on our operations. Based on preliminary estimates, the cost of installation, including plumbing adjustments, construction, and required fixtures, would be significant and would impact our ability to maintain and grow our business. This would represent a considerable financial hardship that is disproportionate to the benefit of compliance with the regulation.

2. The variance, if granted, would not:

A. Cause substantial detriment to the public welfare.

Given that the restroom is properly maintained, accessible, and hygienic, and there is no increased risk to public health or safety, granting the variance would not result in any substantial detriment to the public welfare. The variance would simply allow us to continue operating without the undue financial burden of installing a urinal, while ensuring the same level of sanitation and accessibility.

B. Impair substantially the purpose of the regulation from which the application seeks a variance.

1. Legal description of property concerned, 2. General area identification map

The bureau may require the following supporting documents to be submitted with and as a part of this application:

Specific Request:




NEVADA STATE BOARD OF HEALTH
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

- 1. Legal description of property concerned
- _ 2. General area identification map
- _ 3. Plot map showing locations of all pertinent items and appurtenances
- _ 4. Well log (if applicable)
- _ 5. Applicable lab reports
- _ 6. Applicable engineering or construction/remodeling information
- _ 7. Other items (see following pages)

This application must be accompanied by evidence demonstrating the costs of your compliance with regulations or specific statutory standards. Your request will be placed on the Board of Health agenda 40 days or more after receipt in this office if accompanied by the required fee (NAC 439.210). The application and supporting documentation will form the basis for the Division of Public and Behavioral Health staff report and recommendation(s) to the Board. Failure to respond to the above statements may cause the Board to deny consideration of the application at the requested Board meeting.

I am/we are requesting this variance request be placed on the next regularly scheduled Board of Health agenda. It is understood that I/we can attend in person at either physical location in Carson City or Las Vegas or we may attend virtual.

Signature: 

Printed Name: Mandeep Kaur

Title: Owner

Date: 12/12/2024



NEVADA DIVISION of PUBLIC
and BEHAVIORAL HEALTH

NEVADA STATE BOARD OF HEALTH
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

**PLEASE SUBMIT YOUR APPLICATION FOR VARIANCE BY USING
ANY OF THE FOLLOWING METHODS:**

MAIL TO:

Secretary, Nevada State Board of Health

Division of Public and Behavioral Health

4150 Technology Way, Suite 300

Carson City, NV 89706

FAX:

775-687-7570

EMAIL:

DPBH@health.nv.gov

StateBOH@health.nv.gov