

2945.0130 VARIANCES.

Subpart 1. **Variances; general.** The granting of a variance under this part does not constitute a precedent for any other municipal lockup facility. The granting and denial of all variances shall be in writing and made within 30 days of the request for a variance. The variance will be granted by the commissioner if, in the licensing procedure or enforcement of the standards in this chapter:

A. requirements for a municipal lockup facility to strictly comply with one or more of the provisions will result in undue financial hardship or jeopardize the health, safety, security, detention, or well-being of the residents or facility staff;

B. the municipal lockup facility is otherwise in substantial compliance with the standards contained in this chapter or making satisfactory progress toward substantial compliance;

C. granting of the variance will not preclude the facility from making satisfactory progress toward substantial compliance with this chapter;

D. granting of the variance will not leave the interests and well-being of the detainees and staff unprotected; and

E. the facility will take action to comply with the general purpose of this chapter to the fullest extent possible.

Subp. 2. **Emergencies.** The facility administration may declare a state of emergency suspending those rules affected by the emergency if to not suspend the rules would adversely affect the health, security, safety, or well-being of the persons confined or the facility staff.

Subp. 3. **Notification of emergencies.** The facility administrator shall immediately notify the sheriff of the county and the Department of Corrections of an emergency that results in the suspension of a rule. A formal written report must follow within 72 hours.

Subp. 4. **Extension of emergency.** No suspension of rules because of an emergency declared by a facility administrator may exceed seven days unless the administrator obtains the approval of the commissioner for a variance to the rules and the variance is necessary for the protection of the health, security, safety, or well-being of the staff or the persons detained or confined in the institution where the emergency exists.

Statutory Authority: *MS s 241.021*

History: *17 SR 711; 39 SR 1203*

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