

6244.1900 VARIANCES.

Subpart 1. **Parts subject to variance provisions.** Individuals and individuals in the name of institutions that are subject to parts 6244.0100 to 6244.1800 may request that the commissioner grant a variance from the following parts:

- A. resident requirements, as specified in part 6244.0400, subpart 1;
- B. restrictions on having both a game farm license and a rehabilitation permit, as specified in part 6244.0400, subpart 4;
- C. qualifications testing and continuing education and training requirements, as specified in parts 6244.0410 to 6244.0450 and 6244.0700;
- D. the maximum number of in-shelter assistants that may be designated to work in a facility of the permittee, as specified in part 6244.0410, subparts 3, item L; and 4, item L;
- E. the minimum age requirement, as specified in part 6244.0420, subpart 2;
- F. the restriction on accepting animals for rehabilitation from outside of Minnesota, as specified in part 6244.0800, subpart 1, item B; and
- G. the restriction on transport of animals across state boundaries for release, as specified in part 6244.0800, subpart 3, item B.

Subp. 2. **Application for variance.** A proceeding for requesting a variance begins when the permit applicant or permittee files an application for a variance with the commissioner. The application must include information necessary for the commissioner to determine that the proposed variance is directed toward the attainment of the goals of parts 6244.0100 to 6244.1800, and is consistent with the general public interest and animal welfare including, but not limited to:

- A. how the alternative measure proposed is equivalent to or superior to that prescribed in sections 6244.0100 to 6244.2000; and
- B. how strict compliance with sections 6244.0100 to 6244.2000 will impose an undue burden on the applicant.

Under no circumstance shall a variance be granted that varies a statutory standard.

Subp. 3. **Determination by commissioner.** Within 30 days after receipt of the application, the commissioner shall determine whether the proposed variance constitutes a substantial change from the requirements of the provision from which a variance is requested.

- A. If the commissioner determines that a substantial change would result, the decision of whether or not to grant the variance shall be based on a determination by the commissioner that the proposed variance is directed toward the attainment of the goals of

the provision from which a variance is requested and is consistent with the general public interest and animal welfare.

B. If the commissioner determines that there would be no substantial change, and that the variance is consistent with the public interest and animal welfare and meets the goals and intent of the provision from which a variance is requested, a variance shall be granted.

Subp. 4. **Simultaneous filing of applications.** Applications for variance from sections 6244.0100 to 6244.2000 may be filed simultaneously with an application for a permit to conduct animal rehabilitation, provided that the application contains all information required for applications for a permit to conduct animal rehabilitation.

Statutory Authority: *MS s 97A.401; 97A.418*

History: *20 SR 2291(NO. 43)*

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