

7082.0300 LOCAL PROGRAM ADMINISTRATION.**Subpart 1. Variance from requirements of this chapter.**

A. A local unit of government is authorized to request a variance from the commissioner from the standards in this chapter or request a variance to the public health or environmental protection standards in parts 7080.2150, subpart 2, and 7081.0080, subparts 2 to 5.

B. Before granting a requested variance, the commissioner must find that by reason of exceptional circumstances, the strict enforcement or strict conformity with this chapter or public health or environmental standards would be unreasonable, impractical, or not feasible under the circumstances. The commissioner may permit a variance under part 7000.7000 in harmony with the general purpose of this chapter and chapters 7080 and 7081 and the intent of applicable state laws. The variance request must contain, as applicable:

- (1) the specific provision in the rule or rules from which the variance is requested;
- (2) the reasons why compliance with the rule is difficult or inappropriate;
- (3) a description of the hardship that prevents compliance with the rule;
- (4) the alternative measures that will be taken to ensure a comparable degree of compliance with the intention of the applicable chapter;
- (5) the length of time for which the variance is requested;
- (6) cost considerations; and
- (7) other relevant information requested by the commissioner as necessary to properly evaluate the variance request.

C. Variances must be submitted to and approved by the commissioner prior to implementation.

Subp. 2. Prohibited variation.

A. Local ordinances or locally issued variances must not deviate from flow determinations under part 7081.0110 if the deviation reduces the average daily flow from more than 10,000 gallons to 10,000 gallons per day or less without approval of the commissioner.

B. Programs adopted under part 7082.0100, subpart 3, must not issue variances from provisions in part 7080.2150, subpart 2, items A to D, or 7081.0080, subparts 2 to 5.

C. Only the governing state agency or locally delegated authority is authorized to issue variances to chapters 4714, 4720, 4725, 6105, and 6120.

Subp. 3. **Variation from local ordinance requirements.** Variances to standards and criteria not listed in subpart 2 are allowed to be granted on a site-by-site basis by the local unit of government, if applicable local variance procedures are followed.

Subp. 4. **Record keeping requirements.** Local units of government must maintain records of certificates of compliance, notices of noncompliance, permit applications, issued permits, enforcement proceedings, variance requests, and other actions taken. Records must be available for review by the commissioner. Permit files must also include:

- A. site evaluation reports, including items identified in parts 7080.1730 and 7081.0200;
- B. design reports for items identified in parts 7080.2430 and 7081.0270, subpart 11;
- C. as-built drawings;
- D. management plans and results from approved management plans; and
- E. an annual list of all sewage system tanks installed in the jurisdiction, sorted by the licensed installation business.

Subp. 5. **Enforcement of local ordinances.** Local units of government shall administer local programs and enforce local ordinances that regulate SSTs as adopted in compliance with this chapter. Local units of government are authorized to also enforce local ordinances under Minnesota Statutes, section 115.071, subdivisions 3 and 4.

Statutory Authority: *MS s 14.389; 115.03; 115.55; 115.56; L 2015 1Sp4 art 4 s 132,145*

History: *32 SR 1413; 35 SR 1353; 40 SR 689*

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