



ADMINISTRATIVE RULES OF MONTANA



17.36.922 LOCAL VARIANCES

- (1) As provided in this rule, a local board of health, as defined in 50-2-101, MCA, may grant variances from the requirements in this subchapter and in Department Circular DEQ-4, except for requirements established by statute.
- (2) The local board of health may grant a variance from a requirement only if it finds that all the following criteria are met:
 - (a) granting the variance will not:
 - (i) contaminate any actual or potential drinking water supply;
 - (ii) cause a public health hazard as a result of access to insects, rodents, or other possible carriers of disease to humans;
 - (iii) cause a public health hazard by being accessible to persons or animals;
 - (iv) violate any law or regulation governing water pollution or wastewater treatment and disposal, including the rules contained in this subchapter except for the rule that the variance is requested from;
 - (v) pollute or contaminate state waters, in violation of 75-5-605, MCA;
 - (vi) degrade state waters unless authorized pursuant to 75-5-303, MCA; or
 - (vii) cause a nuisance due to odor, unsightly appearance, or other aesthetic consideration;
 - (b) compliance with the requirement from which the variance is requested would result in undue hardship to the applicant;
 - (c) the variance is necessary to address extraordinary conditions that the applicant could not reasonably have prevented;
 - (d) no alternatives that comply with the requirement are reasonably feasible; and
 - (e) the variance requested is not more than the minimum needed to address the extraordinary conditions.
- (3) The local board of health's decision regarding a variance of a requirement in this subchapter or in Department Circular DEQ-4 may be appealed to the department pursuant to ARM 17.36.924.

Authorizing statute(s): 75-5-201, 75-5-305, MCA

Implementing statute(s): 75-5-305, MCA

History: NEW, 2003 MAR p. 222, Eff. 2/14/03; AMD, 2005 MAR p. 86, Eff. 10/22/04; AMD, 2009 MAR p. 1786, Eff. 10/16/09; AMD, 2011 MAR p. 1548, Eff. 8/12/11.