

POLICY NUMBER: 223.25
DIVISION: Environmental Public Health
POLICY TITLE: Onsite Wastewater Treatment Systems Variance Policy
AGENCY: LLCHD
AUTHORITY: Board of Health
DRAFTED: 11-20-14
APPROVED:
REVISED:
APPROVED:

POLICY STATEMENT:

Lincoln Municipal Code 24.38 Onsite Wastewater Treatment Systems and County Resolution CR-R-13-0062 allow for variances of the regulations and standards to be considered. Any person who owns or is in control of any on-site wastewater treatment system or property on which an on-site wastewater treatment system exists or is proposed may apply to the Health Director for a variance from regulations and standards.

PROCEDURES:

- I. Any person who owns or is in control of any on-site wastewater treatment system or property on which an on-site wastewater treatment system exists or is proposed may apply to the Health Director for a variance from regulations and standards. The Director may grant such variance if he or she finds that:
 - A. The proposed variance will not substantially reduce the capability or capacity of the on-site wastewater treatment system to treat sewage;
 - B. The discharges occurring or proposed to occur do not (or will not) pose an imminent or substantial risk to public health or safety or create or contribute to pollution of air, land or water; and
 - C. Compliance with the regulations and standards from which variance is sought would produce serious hardship without equal or greater benefits to the public. In making such findings the Health Director shall give due consideration to all facts and circumstances bearing upon the reasonableness of the discharges involved including but not limited to:
 1. The character and degree of injury to or interference with the health and physical property of the people;
 2. The risk, character and degree of environmental pollution; and
 3. The technical practicability and economic reasonableness of reducing the discharges resulting from such source.
- II. No variance shall be granted until the Health Director has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.

- III. Any variance or renewal thereof shall be granted within the requirements of subsection (A) of this section, for time periods and under conditions consistent with the reasons therefore, and within the following limitations:
 - A. If the variance is granted on the grounds that there is no practicable means to prevent, abate, or control the pollution, it shall be granted only until the necessary means for prevention, abatement, or control are available;
 - B. If the variance is granted on the grounds that compliance must be spread over a considerable period of time, the Health Director may establish a reasonable time period for compliance; and
 - C. If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in I or II above, it shall be for not more than one year.
- IV. Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If a complaint is made to the Health Director on account of the variance, no renewal thereof shall be granted unless the Health Director finds that renewal is justified. No renewal shall be granted except on application therefore. Any such application shall be made at least thirty (30) days prior to the expiration of the variance.
- V. A variance or renewal shall not be a right of the applicant or holder thereof but shall be at the discretion of the Health Director. The granting or denial of a variance or a renewal shall be by final order of the Health Director.
- VI. No variance or renewal granted pursuant to this policy shall be construed to prevent or limit the authority of the Health Director to cause abatement of public health nuisance conditions or take legal action.
- VII. No variance shall be granted which will sanction any violation of state or federal statutes or regulations.
- VIII. All variance requests will be provided to NDEQ for their review and comment.