

R317-4-12. Variance to Design Requirements.

12.1. Reasons for a Variance.

An applicant may request a variance from requirements of this rule only when a property has been deemed not feasible for the design or construction of an onsite wastewater system. A variance may not be granted for separation distances from public culinary water sources.

12.2. Conditions for a Variance.

A variance will not be approved unless the applicant demonstrates that all of the following conditions are met:

- A. An onsite wastewater system consistent with this rule and local health department requirements cannot be constructed and a connection to a public or community-based sewerage system is not available or practicable. This determination will be made by the local health department.
- B. Wastewater from the proposed onsite wastewater system will not:
 - 1. contaminate ground water or surface water; and
 - 2. surface or move off site before it is adequately treated to protect public health and the environment.
- C. The proposed system will result in equal or greater protection of public health and the environment than is required by meeting the minimum standards and intent of this rule.
- D. Adjacent properties, including the current and reasonably anticipated uses of adjacent properties, will not be jeopardized if the proposed system is constructed, operated, and maintained.

12.3. Procedure for Requesting a Variance.

- A. A variance request shall include the information and documentation described in Subsection R317-4-12.5.
- B. The local health department shall review the variance request and prepare a written determination outlining the conditions of approval or denial of the request. The review shall identify the factors considered in the process and specify the basis for the determination.

12.4. Variance Approvals.

- A. A variance will not be approved unless the applicant demonstrates that all of the conditions in Subsection R317-4-12.2 are met.
- B. A local health department may not issue an approval or an operating permit for an onsite wastewater system that does not comply with this rule unless a variance has been approved.
- C. Notice of the conditions shall be recorded in the chain of title for the property in the office of the county recorder. The notice shall include:
 - 1. the description of the system and variance conditions;
 - 2. operation and maintenance requirements;
 - 3. permission for the regulatory authority to access the property for the purpose of inspection and monitoring of the system; and
 - 4. owner responsibilities to correct, repair, or replace the system at the direction of the regulatory agency.

12.5. Application Requirements.

The variance application shall include all information and documentation necessary to ensure that the standards in Subsection R317-4-12.2 will be met.

- A. As appropriate, the information required under this section shall be submitted in a report by a professional engineer or a professional geologist that is certified at the appropriate level to perform onsite wastewater system design. An engineer or geologist who submits a report shall be licensed to

practice in Utah and shall have sufficient experience and expertise to make the determinations in the report. Any such report shall include the engineer's or geologist's name and registration number, and a summary of qualifications. The report shall be imprinted with the engineer's or geologist's registration seal and signature. Information shall include at least the following.

1. Information demonstrating that connection to a public or community-based sewerage system is not available or practicable.
2. Technical justification and appropriate engineering, geotechnical, hydrogeologic, and reliability information justifying the request for a variance and how the conditions in 12.2 will be met.
3. A detailed description of the proposed system, including a detailed explanation of wastewater treatment technologies allowed by this rule that have been considered for use, and that will provide the best available treatment.
4. A statement of alternatives considered in lieu of a variance.
5. An operation, maintenance, and troubleshooting plan to keep the installed system operating as described in the application.
6. Documentation provided by the local health department that the adjoining land owners have been notified and provided opportunity for comment on the proposed variance.