# OLMSTED COUNTY ZONING BOARD OF ADJUSTMENT

# BY-LAWS

## ARTICLE I – IDENTITY

### Section 1.1 Name

This organization shall be known as the Olmsted County Zoning Board of Adjustment (“Board”).

## ARTICLE II – AUTHORITY

### Section 2.1 Legal Authority

The authorization for the establishment of this Zoning Board of Adjustment is set forth under Minnesota Statutes Section 394.27, as amended from time to time.

The Zoning Board of Adjustment shall have the authority to order the issuance of variances, hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of Minnesota Statutes Sections [394.21](https://www.revisor.mn.gov/statutes/cite/394.21) to [394.37](https://www.revisor.mn.gov/statutes/cite/394.37), order the issuance of permits for buildings in areas designated for future public use on an official map, and perform such other duties as required by the official controls.

## ARTICLE III – MEMBERSHIP

### Section 3.1 Number of Members

The Board shall consist of 7 members, appointed by the County Board of Commissioners, who are eligible voters residing within the limits of Olmsted County. At least two members of the Board shall be residents of the portion of the county outside the corporate limits of municipalities. The County Board of Commissioners will strive to provide diversity in its appointment of Board members.

Members of the Olmsted County Zoning Board of Adjustment shall also be appointed as members of the Olmsted County Planning Advisory Commission.

### Section 3.2 Prohibition on Service by County Employees

Current county employees are prohibited from serving on the Board to avoid potential conflicts of interest, though employees who have retired are eligible to be appointed and serve one year after their date of retirement.

### Section 3.3 Prohibition on Service by County Contractors

Employees or members of organizations with whom the county is currently under contract to provide mandated services are prohibited from serving on the Board to avoid potential conflicts of interest only if:

1. these individuals provide mandated services to the county through their work for a county contractor and
2. in their service as a Board member, they would oversee or directly influence the services to be provided by the contractor to the county.

### Section 3.4 Service by Minors

The county board may, at its option, choose to permit minors to serve as ex-officio members of the Board, provided a majority of the Board members are satisfied that a prospective member who is a minor is of sufficient maturity to properly understand and participate in the proceedings of the Board. All minors who wish to serve as a Board member shall complete an application and include at least one letter of recommendation from an adult who knows the minor well for consideration by the Board. Minors who meet these criteria must apply using the application through the Youth Commission and be approved by a Deputy County Administrator. No more than 2 minors may serve on the Board at any time and they shall serve as ex-officio members of the Board.

### Section 3.5 Term of Service

Members shall be appointed for three years. Members may be appointed to not more than two (2) consecutive 3-year terms. Members whose terms have expired may continue to serve as members of the Board until their replacements have been appointed and qualified.

Membership on the Zoning Boad of Adjustment constitutes membership on the Planning Advisory Commission. Members may not be appointed for two consecutive terms on the Zoning Board of Adjustment, followed by an additional two terms as a member of the Planning Advisory Commission.

### Section 3.6. Member Attendance

Board members shall regularly attend Board meetings and any other Board member assigned duties. Board members shall be permitted two unexcused absences for each year of Baord service. Excused absences include, but are not limited to, absences for activities such as illnesses, serious personal injuries, vacations, jury duty, voting, school activities and family emergencies. If a Board member incurs three unexcused absences within one year, this matter shall be referred to the Deputy County Administrator with oversight for the Planning Department on behalf of the Board for further action pursuant to the procedure set forth in Section 3.11g below.

### Section 3.7 Compensation for Member Duties

Board members shall be paid per diem compensation as determined by resolution of the Olmsted County Board of Commissioners for their attendance at Board meetings and for any other Board member duties as assigned.

### Section 3.8 Conflicts of Interest

Each Board member shall complete a Conflict of Interest Statement prior to serving as a Board member to inform the Ccunty about potential conflicts of interest. Each Board member shall update the Conflict of Interest Statement annually thereafter while service on the Board continues. No Board member shall participate in any proceedings before the Board if the member has a conflict of interest. A conflict of interest occurs when:

1. the Board member has a property interest in or directly receives financial compensation from a sale, lease, or contract which is related to a matter that comes before the Board for action or approval.
2. a matter requiring Board action comes before the Board where the Board member is related by blood or marriage or is a close friend or associate to persons presenting the matter and the Board member feels that because of a close personal relationship with the presenter, the Board member cannot be fair and impartial when considering how to vote on the matter requiring Board action.

If information is received that a member of the Board has a conflict of interest on a matter which comes before the Board for action or approval and that member does not recuse themself from participation, the Board Chair shall intervene and shall preclude the member from participating in discussions or voting pertaining to that matter. If a member is found to repeatedly participate in matters coming before the Board for action or approval where a conflict of interest exists, this matter shall be referred to the Board Chair for further action pursuant to the procedure set forth in Section 3.9g below.

### Section 3.9 Board Member Conduct

1. It is critically important that members of the public who have business before the Board feel confident that the Board will treat them fairly and impartially without regard to their race, color, creed, religion, national origin, sex, marital status, familial status, disability, public assistance, age, sexual orientation or local human rights commission activity. By choosing to serve as a Board member, members shall refrain from engaging in speech or conduct that will reasonably tend to make members of the public with business before the Board feel the Board will not treat them fairly and impartially without regard to their race, color, creed, religion, national origin, sex, marital status, familial status, disability, public assistance, age, sexual orientation or local human rights commission activity.
2. Board members shall also comply with the following [county policies](https://ocwebapp.co.olmsted.mn.us/PolicyDirectory/) pertaining to their Board service:
   1. Accepting Donations
   2. Conflict of Interest/Legal and Ethical Practices
   3. Diversity and Inclusion Policy
   4. Gifts - Gratuities
   5. Political Activity (during Board/Commission service times)
   6. Solicitation on Premises (during Board/Commission service times)
   7. Tobacco Free Grounds (during Board/Commission service times)
   8. Weapons in the Workplace (during Board/Commission service times)
   9. Animals in the Workplace (during Board/Commission service times)
3. Board members are also prohibited from representing to others that they speak on behalf of the entire Board , or the Olmsted County Board of Commissioners, unless the Board has authorized the member to do so, though members may continue to speak in their role as an individual member serving on the Board.
4. If a Board member is convicted of a criminal offense which directly relates to the administration of laws or ordinances by a county department which come before the Board for action, this shall be grounds for removal of the Board member pursuant to the procedure outlined in Section e below.
5. Ex parte communications between members of the Board and members of the public who have business pending before the Board for official action concerning that matter is discouraged in order to ensure that all nonpublic information pertinent to Board matters is produced in an open meeting to which all of the Board members and the public have access.
6. Board members are discouraged from publicly stating their positions in advance on matters of official business coming before the Board because of the perception by the public that they no longer retain an open mind to listen to all sides of matters of official business. If Board members do state their positions in advance, they will be precluded from participating when the matter of official business is brought up for discussion and a vote by the Board.
7. The Board Chair and Vice Chair shall investigate the allegations brought against a Board member with the assistance of county staff and the County Attorney’s Office as needed. The Board member shall be given an opportunity to present information relevant to the allegations. If the Board Chair and Vice Chair determine a Board member has engaged in speech or conduct which violates this standard, the Board Chair shall notify the Deputy County Administrator with oversight for the Planning Department of the pertinent facts which support its conclusions and a recommendation concerning disciplinary action. If the allegations are proven by a preponderance of the evidence to the Deputy County Administrator, the Board may, depending on the facts which are proven, choose to 1) censure the member privately, 2) issue a public censure of the member and establish a probationary period for further disciplinary action if violations continue, or 3) may ask the county board to remove the member from the Board and appoint a suitable replacement member. Members shall be subject to removal, for cause, upon a 4/7 vote by the county board, after notice and opportunity for hearing before the Board.

### Section 3.10 Board Vacancies

It shall be the duty of the Planning Department staff to notify County Administration of any vacancy in membership. The County Board of Commissioners shall appoint an individual to fill such vacancy for the remainder of the unexpired term. However, Board members wishing to serve a second term shall verbally express their interest to the planning staff supporting the Board and Deputy County Administrator with oversight for the Planning Department and, with their approval, may continue to serve a second term without re-application.

## ARTICLE IV – OFFICERS

### Section 4.1. Commission Officers

The officers shall consist of a Chair and Vice Chair. The Chair and Vice Chair shall be elected by the Board from among its members.

### Section 4.2. Duties of the Chair

The Chair shall preside at all meetings and hearings of the Board and shall have the duties normally conferred by parliamentary usage on such officers.

### Section 4.3 Duties of the Vice Chair

The Vice Chair shall act for the Chair in their absence.

### Section 4.4 Duties of Planning Staff

The county planning staff will act as Secretary for the Board; keep the minutes and records of the Board ; attend to the correspondence of the Board ; and carry out all public notice requirements.

## ARTICLE V – ELECTION OF OFFICERS

### Section 5.1. Annual Meeting

An annual organizational meeting shall be held at the first regular meeting occurring after the appointment of new Board members.

### Section 5.2. Officer Nominations

Nominations shall be made from the floor at the annual organizational meeting and election of the officers specified in Section 4.1 shall follow immediately thereafter.

### Section 5.3. Officer Terms

A candidate receiving a majority vote of the entire membership of the Zoning Board of Adjustment shall be declared elected. New officers shall take office immediately upon election and shall serve for one year or until their successor shall take office. Officers may serve a maximum of two consecutive terms in any one office.

Vacancies in office shall be filled immediately by regular election procedure.

## ARTICLE VI – MEETINGS

### Section 6.1 Regular Meetings

At the annual meeting, the Board will adopt its meeting calendar for the year. The calendar will be drafted by the Olmsted County Planning Department and shall include at least one scheduled meeting per month.

Regular meetings of the Planning Advisory Commission will follow any regularly scheduled meeting of the Zoning Board of Adjustment.

### Section 6.2. Notice of Meetings

Notice in writing of any meeting shall be sent to all Board Members at least 5 calendar days in advance of the meeting and shall state the time, place and purpose of such meeting.

### Section 6.3 Special Meetings

Special meetings may be called by the Chair or at the request of at least 3 members of the Board or by the Director of the Planning Department or his/her designee. Planning Department staff shall notify all members of the Board by any means not less than three days in advance of such special meeting. However, for special meetings which include one or more public hearings, Planning staff shall notify members of the Board at least 10 calendar days in advance of the special meeting consistent with the requirements of Minn. Stat. Section 394.26.

### Section 6.4 Open Meeting Law Requirements

Meetings shall be subject to the Minnesota Open Meeting Law, Minn. Stat. Chapter 13D, as may be amended from time to time.

## ARTICLE VII – MEETING PROCEDURES

### Section 7.1 Robert’s Rules of Order

Unless otherwise specifically designated, Robert’s Rules of Order, as most recently revised, shall govern meeting procedure, insofar as possible.

### Section 7.2. Quorum Requirements

A quorum shall consist of 4 members. A minimum of 4 votes in the affirmative shall be required to approve a request. If a member recuses himself/herself from discussion and voting on an application pending before the Board due to a conflict of interest, the member is still considered to be present for purposes of a quorum

### Section 7.3 Voting Requirements

1. All voting members shall have the right to vote on matters which come before the Board for action.
2. All voting shall be by voice or by a show of hands and the result of the voice or hand vote shall be kept as part of the minutes.
3. A motion from the floor must be made and passed in order to dispense with any item on the agenda.
4. No binding or final action may be taken on any matter not on the written agenda except by an unanimous vote of the members in attendance.
5. A motion to postpone has the effect of laying the matter over until the next regular meeting unless otherwise specified.
6. The Board may temporarily suspend its rules by a five-sevenths (5/7) vote of members in attendance.
7. Any matter before the Board that does not receive four affirmative votes shall be denied.

### Section 7.4 Meeting Adjournment

All meetings of the Board will adjourn no later than 11 p.m. If there is still business to be discussed the Board will set a time and date for continuance of the meeting.

## ARTICLE VIII – HEARINGS

### Section 8.1 Public Hearings

In addition to those required by law, the Board may hold public hearings when it decides that such hearings will be in the public interest.

### Section 8.2. Notice of Hearings

Notice of the time, place and purpose of such hearing shall be published in at least one newspaper of general circulation in the territorial jurisdiction of the Board at least 10 calendar days prior to the hearing.

### Section 8.3. Public Hearing Procedures

Procedures for the public hearing shall be as follows:

1. The Chair shall announce the commencement of the public hearing.
2. At the conclusion of the testimony on an application, the Chair shall ask the Board for a motion to close the public hearing, and/or ask for a motion of recommendation of the public hearing item.

### Section 8.4. Public Hearing Record

A record shall be kept of those speaking before the Board at such hearings.

### Section 8.5. Hearing Rules

The Board may adopt rules for the orderly conduct of hearings.

## ARTICLE IX – APPEALS

### Section 9.1 Appeal to District Court

All decisions by the Board in granting variances or in hearing appeals from any administrative order, requirement, decision, or determination shall be final except that any aggrieved person or persons, or any department, board or commission of the county shall have the right to appeal within 30 days, after receipt of notice of the decision, to the Olmsted County District Court as the county in which the land is located on questions of law and fact pursuant to Minnesota Statutes Section 394.27.

## ARTICLE X – AMENDMENTS

### Section 10.1 Amendment of Bylaws

Amendments to these bylaws may be provisionally approved by a two-thirds (2/3) vote of Board members, provided that any such proposed amendment shall first have been delivered to each Board member at least 5 calendar days prior to the meeting at which such amendment is considered and is in accordance with the enabling resolution adopted by the Olmsted County Board of Commissioners. However, the proposed amendments shall not become final and binding until they have been approved by a majority vote of the Olmsted County Board of Commissioners following approval by the Board.

Approval

OC-ZBA Approval:

County Board Approval: