

Rochester-Olmsted Planning Department  
Application for Exception to Olmsted County Water Well and Water Supply Ordinance

A. Location:

1. Owner(s) name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_
  
2. Location of property where exception is proposed:  
Plat \_\_\_\_\_ Parcel \_\_\_\_\_ Subdivision \_\_\_\_\_ Lot \_\_\_\_\_ Block \_\_\_\_\_  
Township \_\_\_\_\_ Section \_\_\_\_\_ Subsection \_\_\_\_\_

B. Exception Request:

What section(s) of the ordinance are you proposing to vary from: \_\_\_\_\_  
Describe how you propose to vary from the requirements: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Reason for requesting an exception to the ordinance:

Describe in detail any exceptional circumstances applying to this request, or the nature of any misinterpretation of the ordinance. Use additional paper if necessary.  
\_\_\_\_\_  
\_\_\_\_\_

D. You must submit the following along with this application:

1. A site plan showing the location and separation distances between the well and structures, lot lines, septic systems, fuel tanks, feed lots and other sources of contamination. (Attach Site Plan)
2. Documentation from a water well professional showing the wells total depth, well casing diameter, well casing depth and static water level within the well.
3. Water quality results taken within the last six months (provide any older test results that may also be available).
4. The non-refundable filing fee to be made payable to Olmsted County.

E. Notice and Signature:

The Olmsted County Environmental Services Administrative Ordinance sets conditions that the Environmental Commission must consider when reviewing applications for exceptions. A copy of that section of the ordinance is attached for your review. Also, the variance exception may need to be reviewed and approved by the Minnesota Department of Health prior to any action by Olmsted County.

Signature of Owner \_\_\_\_\_ Dated \_\_\_\_\_

**Return application to:**  
Rochester-Olmsted Planning Department  
Inspections Division  
2122 Campus DR SE  
Rochester, MN 55904

**For Office Use Only:**  
Date received: \_\_\_\_\_  
Received by: \_\_\_\_\_  
Application fee: \_\_\_\_\_  
Receipt #: \_\_\_\_\_  
Meeting date: \_\_\_\_\_  
Action: \_\_\_\_\_  
Mailed owner: \_\_\_\_\_  
Filed with recorder: \_\_\_\_\_

OLMSTED COUNTY ENVIRONMENTAL SERVICES ADMINISTRATIVE ORDINANCE  
ARTICLE IV. EXCEPTIONS

SECTION 4.00 POLICY ON EXCEPTIONS

- 4.001 POLICY: It is the intent of this ordinance to provide procedures to accommodate alternative approaches to meeting the intent of the environmental ordinances, wherever it is possible to do so consistent with the protection of the environment and the public health, safety, and welfare, and consistent with the general intent of the environmental ordinances. This article sets forth procedures for the Environmental Commission to consider the circumstances of a particular situation and to decide (1) whether or not to grant an exception, with or without conditions, modifying the application of ordinance provisions to a particular property, or (2) whether or not the applicable ordinance has been applied in a manner consistent with its intent.
- 4.002 CIRCUMSTANCES FOR EXCEPTIONS: There are two circumstances under which an owner may apply for an exception. These include (1) circumstances in which the owner contends that characteristics of an individual property make strict adherence to the requirements of an environmental ordinance difficult, unreasonably expensive, or impractical; and (2) circumstances in which an owner alleges that the staff administering environmental ordinances has misinterpreted or misapplied ordinance provisions.
- 4.003 ADMINISTRATIVE LATITUDE: Where possible, each environmental ordinance will provide for administrative latitude in the application of the requirements of the ordinance. The procedures for exceptions are intended to apply to those situations in which the latitude of the staff to approve alternative means of meeting ordinance requirements is limited. Limits on administrative latitude may be related to requirements of State of Minnesota rules, the magnitude of the exception needed, or other policy issues.

SECTION 4.02 PROCEDURE FOR REQUESTS FOR EXCEPTIONS

- 4.021 APPLICATION FOR EXCEPTION: When a Director has determined that it is not possible to issue a license or permit for a particular activity or structure under the administrative procedures of the applicable environmental ordinance, or when a person, agency, or officer of an affected jurisdiction is aggrieved by a decision of a Director, an application may be made requesting an exception to the administration of the ordinance. Such application shall be made on a form provided by the Director and shall set forth any exceptional circumstances applying to the property, or if applicable, the nature of any alleged error in administration or interpretation of the ordinance. If the applicant alleges an error in administration affecting property not owned by the applicant, such application shall be made within ten (10) days of the applicable administrative decision.
- 4.022 VARIANCES FROM STATE AGENCY RULES: The Environmental Commission shall not consider any application for an exception that involves a variance from applicable Minnesota rules until review and action required by applicable Minnesota state departments has been conducted. If the applicable Minnesota department denies the requested variance, then the Environmental Commission shall not consider the application for exception.

4.023 ADMINISTRATIVE PROCESSING: Upon receipt of an application and required fees for an exception to the administration of an environmental ordinance, the Director shall carry out the following activities:

4.0231 The Director shall schedule a hearing for Environmental Commission review within 60 days of receipt of the application.

4.0232 The Director shall draft a report on the application, setting forth (1) the date, time, and place of the hearing; (2) the nature of the applicant's request; (3) the characteristics of the applicant's property and environs; (4) the relationship of the request to the intent of the applicable environmental ordinance; and (5) recommended findings and actions. If the Director recommends approval of an exception with conditions, the report shall set forth those conditions. The Director shall forward the report and the application to the Environmental Commission, the applicant, any other property owner the use of whose property might be affected by approval of the application, and the clerk of the municipality in which the affected property is located.

4.0233 The Director shall seek to reach an agreement with the applicant on the conditions for an exception. The agreement shall be a written contract confirmed by the applicant's signature and binding upon the applicant, his successors and assigns, when and if the exception and conditions are approved by action of the Environmental Commission. Such conditions may include report or records requirements, schedules and time limits and other limitations on operations, and requirements for renewable permit.

#### SECTION 4.04 ENVIRONMENTAL COMMISSION DECISION PROCESS

4.041 TABLING: The applicant or the Director may request the Environmental Commission to table or delay the hearing for up to 35 (thirty-five) days. Tabling for longer periods may be authorized with agreement of both the applicant and the Environmental Commission.

4.042 TESTIMONY: The Environmental Commission shall review the application, and the Director's report and receive written or oral testimony from applicable Minnesota Department staff, Directors, the applicant, and other witnesses for the County or the applicant.

4.043 DETERMINATION: The Environmental Commission shall determine whether or not the Director has made an error in interpreting or administering the ordinance. If the Environmental Commission finds that an error of interpretation or application of the ordinance has been made, it shall table the matter for up to 35 days and instruct the Director to prepare a resolution for adoption by the Environmental Commission. The resolution shall set forth the proper interpretation and administration of the ordinance. The resolution shall instruct the Director to administer the ordinance in accordance with the corrected interpretation of the ordinance, both in general and in the applicant's particular case. If the Environmental Commission finds that the ordinance has been interpreted and administered correctly, it shall proceed to address the findings identified in section 4.044.

4.044 FINDINGS: After consideration of the record and within 60 days from the date of the hearing, the Environmental Commission shall make findings addressing the following matters prior to taking action on the requested exception:

4.0441 the effect of the requested exception on the health, safety, and general welfare of the current and future occupants of the property and of adjacent properties, and the general public;

4.0442 the effect of the requested exception on the natural and human-influenced environment of the vicinity;

4.0443 the presence of any exceptional circumstances applying particularly to the property and that do not generally apply in the County, that make strict adherence to the requirements of the ordinance difficult, unreasonably expensive, or impractical;

4.0444 the role of the applicant, if any, in creating the situation bringing about the need for the requested exception; and

4.0445 the relationship of the requested exception to the general intent of the applicable environmental ordinance.

4.045 ACTION: Based on adopted findings supporting its actions, the Environmental Commission may act: (1) to approve the requested exception as submitted, (2) to approve with conditions, (3) to deny the requested exception, or (4) to table action for up to 35 days pending further information. The Environmental Commission may table action for a longer period with the agreement of the applicant. The Environmental Commission may establish as one of the conditions of approval of an exception the requirement that the applicant enter into a contract establishing the applicant's obligation to adhere to the requirements and conditions of the exception.

4.005 RECORD OF ACTION: Within 35 days of the Environmental Commission's action, the Director shall notify the applicant, the County Board, and the clerk of the affected municipality of the action. If the exception is approved with or without conditions, a record of exception action shall be recorded with the property record at the County Recorder's Office.

#### SECTION 4.06 APPEAL OF ENVIRONMENTAL COMMISSION ACTIONS:

Appeals of the decisions of the Environmental Commission shall be to District Court. Appeals must be taken within thirty (30) days after the Director has sent a notice of the Commission's action to the person affected by the decision.