



Memorandum

To: Windemere Township
From: Kim Lindquist, Zoning Administrator
Date: February 19th, 2026
Re: DNR Comments Response

The Town, any town with a shoreland zoning district, is required to have the DNR review the draft ordinance for recommendation and comment prior to adoption. In Windemere, the Town also must also have Pine County review the Shoreland Ordinance. The DNR has reviewed and commented on the draft ordinance. A copy of the DNR letter is in the packet and the comments, and staff responses are below for the Commission and Boards use. If the Commission finds the recommendations acceptable, approval of the DNR initiated changes should be recommended for approval as part of the motion to the Board

The wording in red is the Town's response to the MN DNR's comments, showing what action was or wasn't done to the ordinance to address the comments.

DNR LETTER

Consistency Review of Windemere Township Zoning Ordinance w/ Pine County Shoreland Ordinance

Dear Chairmen, Overland and Anderson

Thank you for sending your proposed Windemere Township Zoning Ordinance to the MN DNR for review. With the addition of the shoreland overlay district and provisions previously included in the Windemere Township Shoreland Management Ordinance to the Windemere Township Zoning Ordinance your ordinance amendments appear to be substantially compliant with the Pine County Shoreland Management Ordinance (March 18, 2025 version) and therefore substantially compliant with Minnesota Shoreland Rules (MR 6120.2500 – 6120.3900).

Ordinance Evaluation

It is our understanding that the Windemere Township Shoreland Management Ordinance approved March 4, 2025 will be repealed and replaced with approval of the current changes and inclusion of the shoreland management provisions into the Windemere Township Zoning Ordinance that will now include a shoreland overlay district that will remain at least as restrictive as the current shoreland ordinance it is replacing. DNR has reviewed all sections of the amended Windemere Township Zoning Ordinance received January 29, 2026, including Section 10, Shoreland Overlay District for consistency with Pine County Shoreland Management Ordinance and MN Shoreland Rules. Our review includes those sections relevant to the shoreland portion of your ordinance, and we have the following recommendations, additions and clarifications regarding your current amendments before DNR can make a final determination of consistency. Those items are included below.

- There are several terms used throughout your ordinance amendment in which a definition could help provide meaning to the term being used. We understand that some of these terms or uses may no longer be considered allowed but are found in one or multiple locations. We recommend adding or modifying the following definitions to Article 2.1
 - **Campground.** "Campground" means any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of five or more tents or recreational camping vehicles free of charge or for compensation. Does not include youth camps, industrial camps, U.S. Forest Service Camps, state forest service camps, state wildlife management areas or state-owned public access areas which are restricted in use to picnicking and boat landing, and temporary holding areas for self-contained recreational vehicles created adjacent to motor sports facilities.
 - **Guest Quarters.** "Guest Quarters" means an accessory structure that contains a dwelling unit that may contain sleeping spaces and/or kitchen and/or bathroom facilities in addition to those provided in the primary dwelling unit on a lot. All finished upper story spaces in accessory structures shall be considered guest quarters for the purpose of this ordinance.
 - **Residential Planned Unit Development.** "Residential Planned Unit Development" means a use where the nature of residency is non-transient and the major or primary focus of the development is not service oriented. For example, residential apartments, manufactured home parks, time-share, condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five (5) dwelling units or sites.
 - **Structure.** "Structure" means that which is built or constructed, an edifice or building or appurtenance thereto, or any piece of work artificially built up, or composed of parts joined together in some definable manner, **including decks** except aerial or underground utility lines such as: sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting appurtenances.

The above recommended definitions were added in section 2.1. Pg 8, Pg 12, Pg 18, Pg 24

- Article 10.2.7 appears to be a definition in an incorrect location and is covered in the definitions section 2.1 already, DNR recommends deletion.

The definition for "buildable area" was deleted from section 10.2.7 since it is already included in 2.1, Pg 43

- Article 10.3.2 appears to have a portion of this section left off and does not provide the variance criteria it references. DNR recommends this article include section 3.6.1 criteria from the Pine County Shoreland Ordinance as criteria that needs to be satisfied for consistency.
 - a. The applicant's proposed use is allowed in the zoning district in which the subject property is located.
 - b. The variance is in harmony with the comprehensive plan.
 - c. A practical difficulty exists on the property preventing the applicant from complying with the ordinance. Practical difficulty is established when the applicant proposes to use the property in a reasonable manner not permitted by the ordinance or when the variance request is due to circumstances unique to the property not created by the landowner. Economic considerations alone do not constitute practical difficulties.
 - d. If granted, the variance may not alter the essential character of the locality.
 - e. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do; nor for any other reason than meeting the conditions listed in Sections 3.6.1 to 3.6.4 of this ordinance.

- f. The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear rough proportionality to the impact created by the variance.
- g. The Board of Adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conducting of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 3.9.2 of this ordinance shall also include the Board of Adjustment's summary of the public record/testimony and the findings of fact and conclusions which supported the issuance of the variance.
- h. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a non-conforming sewage treatment system.

A, b, c, d, e, f replaced Section 15.4.2 1-5. Pg 142

Removed:

- ~~1.—The variance is in harmony with the general purposes and intent of this Ordinance;~~
- ~~2.—The owner proposes to use the property in a reasonable manner not permitted by this Ordinance;~~
- ~~3.—The plight of the owner is due to circumstances unique to the property that were not created by the owner;~~
- ~~4.—If granted, the variance will not alter the essential character of the locality; and~~
- ~~5.—Economic considerations are not the sole basis for the requested variance.~~

Replaced:

1. The applicant's proposed use is allowed in the zoning district in which the subject property is located.
2. The variance is in harmony with the comprehensive plan.
3. A practical difficulty exists on the property preventing the applicant from complying with the ordinance. Practical difficulty is established when the applicant proposes to use the property in a reasonable manner not permitted by the ordinance or when the variance request is due to circumstances unique to the property not created by the landowner. Economic considerations alone do not constitute practical difficulties.
4. If granted, the variance may not alter the essential character of the locality.
5. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do; nor for any other reason than meeting the conditions listed in Sections 15.4.2 and 10.3.2 of this ordinance.
6. The Board of Appeals and Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear rough proportionality to the impact created by the variance.

G and h were added to Article 10.3.2. Pg 44

In addition to the criteria found in Section 15.4, variances within the shoreland overlay district shall also meet the following criteria:

1. The Board of Appeals and Adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conducting of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 10.6.2 of this ordinance shall also include the Board of Appeals and Adjustment's summary of the public record/testimony

and the findings of fact and conclusions which supported the issuance of the variance.

2. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a non-conforming sewage treatment system.

- Article 10.7.1. A. Shoreland Classification System, the proposed addition of four basins to the Town's list of Natural Environment Lakes includes basins 58-0064, 58-0065, 58-0066 and 58-0072. These public waters have been reviewed by the DNR and we have no objection to their addition to shoreland classified public waters under this ordinance.

No action. These basins are already in the ordinance.

- Article 10.7.3– New Shoreland Overlay Districts Zoning Map depicts Shoreland Overlay Districts

No action.

- Article 10.11.1 appears to require all new lots in all shoreland districts to have 300' of lot width. This 300' width across all lots can appear more restrictive for single and oftentimes duplex sized lots but would not meet the minimum for some duplex, triples and quadplex lots width minimum depending on sewer(ed) and lake classification. We recommend reviewing section 5.1.1, Lot Area and Width Standards of Pine County Shoreland Ordinance for consistency of those duplex, triplex and quad plex sized lot width and area requirements with the proposed changes to a single 300' wide for all lots widths for consistency.

Additional lot dimensions that are stricter than 300' and where duplex, triplex, and/or quad are allowed were added to section 10.11.1. Pg 64

2. Lot width: 300 feet **except for the following:**

- A. Triplex (Riparian): 300 feet
- B. Triplex (Non-Riparian): 375 feet
- C. Quad (Riparian): 375 feet
- D. Quad (Non-Riparian): 490 feet

- Article 10.11.1 appears to be inconsistent with Section 5.1.4, additional special provisions of the Pine County Shoreland Ordinance. This section includes provisions of lot development that DNR does not readily see in other sections of this ordinance. This includes lot dimensional allowances, standards for duplex, triples and quads on Natural Environment Lakes and guest cottage provisions. Please review section 5.1.4 parts A. B. C. & D. of the Pine County Shoreland Ordinance for consistency with your proposed amendments to article 10.11.1.

Duplex, triplex, and/or quads are not an allowed use on Natural Environment Lakes.

10.11.2.5 was replaced with 5.1.4.C 1-5 in Pine County Shoreland Ordinance. Pg 66

Removed:

- ~~5.—A guest cottage must not cover more than seven hundred (700) square feet of land surface and shall not exceed fifteen (15) feet in height.~~

Replaced:

1. Guest Cottage and Guest Quarters
 - A. One (1) guest cottage or guest quarters may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in this section, provided the following standards are met:

- i. For a lot exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex sized lot that could be created including the principal dwelling unit;
 - ii. The guest cottage must not cover more than 700 square feet of land surface and must not exceed fifteen (15) feet in height; and
 - iii. The guest cottage or building with guest quarters must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
 - iv. The building footprint for an accessory structure containing a guest quarters is limited by impervious surface limits according to section 10.11.2.7 of this ordinance and the guest quarters shall not exceed 700 square feet.
 - v. An accessory structure with a guest quarters shall not exceed twenty-five (25) feet in building height
- Article 10.11.2 (5) identifies guest cottages as an allowable structure on lots with the maximum allowable area of 700 sq. feet and a maximum of 15 feet in height. The DNR recommends this section be considered for additional language to reduce confusion with when a quest cottage is allowed, such as on duplex sized lots and what to do when property owners ask if quest quarters are or are not allowed within the footprint of accessory structures. We recommend reviewing the Pine County Shoreland Ordinance for consistency and/or outright prohibiting the use of guest quarter use if that is the intended outcome. Quest quarters are becoming very popular and often times are being added without an understanding if they are allowed or not and any clarification that can be provided in this ordinance can be helpful.

The language that was removed and replaced in the above comment regarding guest cottage/guest quarters addresses this. Pg 66

- Article 10.11.2 (6) (C) Existing Campgrounds, it remains unclear whether new or expanded campgrounds are allowed as commercial PUD or standalone use in specific shoreland districts. Campgrounds and recreational camping areas are used throughout the ordinance but there are no campground uses listed as allowable uses in the district use tables nor campground specific standards as detailed in section 5.6.8 Campground Use Standards of the Pine County Shoreland Ordinance. If these proposed changes intend to limit or prohibit future campgrounds and/or resorts, we recommend that this be clarified to be consistent and/or more restrictive than Pine County Shoreland Ordinance, be listed as N on use table as a prohibited use if that is intention. If they are to still be allowed please consider additional review and inclusion of Pine County provisions and standard needs for consistency.

Campground was added to Section 10.9 Allowed Uses tables and listed as N. Pg 54-64. Campground(s) are prohibited uses in all shoreland overlay districts.

- Article 10.15.3 Forest Management Standards appears to have 5 additional criteria that do not seem to be associated with this article but appear to be standards associated with home occupation that are covered in a different section of your ordinance. We recommend review and deletion if covered elsewhere in ordinance.

Home occupation was given its own section. Pg 75

10.15.4 Home Occupation

1. Driveway access to home-based businesses must be adequate to support the type of business allowed. Access locations shall not be unsafe or be obscured by

vegetation, topography, signage, horizontal roadway curves, or vertical roadway curves.

2. No activity shall be permitted that will create a public hazard or public nuisance or otherwise be incompatible with adjacent residential uses.
3. Home-based businesses requiring plumbing shall be consistent with the provisions of Pine County Subsurface Sewage Treatment Systems Ordinance.
4. Security lighting shall be directed away from adjacent roadways and properties
5. Home-based businesses shall be allowed a single advertising sign not to exceed 30 square feet in area or be located closer than ten (10) feet from any property line or roadway easement for each permitted business.

As noted earlier, your amendments appear to be substantially compliant with the Pine County Shoreland Ordinance and any clarification, additions or removals of provisions as listed above, and/or agreement on recommendations will aid in DNR's final determination of consistency.

Conditions of Consistency Review with Pine County Shoreland Ordinance

The following conditions must be met before the DNR will issue final approval:

1. DNR and Pine County are provided a response to clarify items identified above that appear to be inconsistent with the Pine County Shoreland Ordinance.
2. DNR and Pine County are provided with an updated version of Windemere Township Zoning Ordinance with any new changes to address those articles and items identified above.
3. DNR and Pine County are provided with a clean copy of the Windemere Township Zoning Ordinance.

Next Steps

Following are the steps for completing and receiving final DNR agreement of consistency for your ordinance amendment:

1. If there are any changes made between the date of this letter and your approval you must
2. contact the DNR about changes that could affect our final review.
3. Town Board adopts the proposed amendment to the Windemere Township Zoning Ordinance.
4. Email the completed Ordinance Processing Checklist (attached) and the documents identified on
5. the checklist within 10 days of Township Board adoption to:
 - a. Kelly Condiff- kelly.condiff@state.mn.us
 - b. Ordinance.review.dnr@state.mn.us
6. DNR will review adopted ordinance for consistency with the Pine County Shoreland Ordinance.
7. If the adopted ordinance remains consistent with Pine County Shoreland Management
8. Ordinance, DNR will send you a "final review and consistency" letter.

In our review we also noticed a new section, article 11.17 Surface Use of Johnson Lake, that appears to be a new addition to your zoning ordinance. We understand Windemere Township has a Surface Water Ordinance that dates to 9/14/1995 with what appears to be the same or similar language. We are unsure if this addition to your zoning ordinance related to surface water restrictions has been reviewed by DNR Enforcement on behalf of the DNR commissioner as required under MN Statute 86B. We are copying Captain Adam Block, DNR Enforcement, and please reach out to him regarding compliance with Mn Statute 86B and any needed approvals.

Again, thank you for sending your proposed Windemere Township Zoning Ordinance to the MN DNR for review. The Windemere Township Zoning Ordinance is an important land use regulation

that helps to protect surface water quality, near shore habitat, and shoreland aesthetics of Windemere Township. We appreciate your efforts to protect these resources for all present and future Minnesotans. Kelly Condiff is available to assist with ordinance technical guidance and to consult with you on land and other water-related projects as needed. Please work through Kelly regarding these additional items identified and if you have any questions, you can reach him at kelly.condiff@state.mn.us and 218-343-3916.