

SHORELAND MANAGEMENT  
ORDINANCE  
FOR  
WINDEMERE TOWNSHIP, MINNESOTA

Amended XXXXX, 2024

Drafted By:  
Windemere Township Planning Commission  
91546 Military Road  
Sturgeon Lake, MN 55783

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THE BOARD OF SUPERVISORS OF WINDEMERE TOWNSHIP, PINE COUNTY,  
MINNESOTA DOES ORDAIN:

## Section 1.0 Statutory Authorization and Policy

### 1.1 Statutory Authorization

This Shoreland Ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Rules, Parts 6120.2500 —

6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter. 394.

## **1.2 Policy**

The uncontrolled use of shorelands of Windemere Township, Pine County, Minnesota affects the public health, solely and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Minnesota State Legislature has delegated responsibility to local governments of the State to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Windemere Township.

## **Section 2.0 General Provisions and Definitions**

### **2.1 Jurisdiction**

The provisions of this ordinance shall apply to the shorelands of public water bodies as classified in Section 4.0 of this ordinance. Pursuant to Minnesota Rules, parts 6120.2500-6120.3900, no lake, pond, or flowage less than ten (10) acres in size in municipalities or twenty-five (25) acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A separate body of water which has been created by a private user that is not connected to a public water shall be exempt from this ordinance.

### **2.2 Compliance**

The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this ordinance and other applicable regulations.

### **2.3 Enforcement**

The Windemere Township Zoning Administrator is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations

of this ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 3.4 of this ordinance.

#### **2.4 Interpretation**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other powers granted by Minnesota State Statutes.

#### **2.5 Severability**

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

#### **2.6 Abrogation and Greater Restrictions**

It is not intended by this ordinance to repeal, abrogate, or impair any easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. The ordinance entitled "Township of Windemere, Pine County, Minnesota, Shoreland Zoning Ordinance" dated May, 1991, and all subsequent amendments are hereby repealed and replaced by this ordinance.

#### **2.7 Definitions**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application. For the purpose of this ordinance, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

**Accessory Structure or Facility.** "Accessory Structure or Facility" means any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

**Agricultural Machinery.** "Agricultural Machinery" means motorized or non-motorized equipment used in the raising of crops and/or livestock.

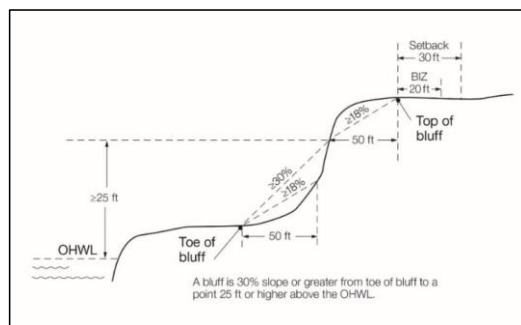
**Agricultural Feedlot.** "Agricultural Feedlot" means a lot or building or a group of lots or buildings intended for the confined feeding, breeding, raising or holding of animals. It includes areas specifically designed for confinement in which manure may accumulate or any area where the concentration of animals is such that a vegetative cover cannot be maintained. New feedlots

are prohibited in shorelands per Minnesota Rules, part 7020. Minnesota Statute 116.0711 allows the resumption of existing feedlots.

**Agricultural.** “Agricultural” means a category of uses that includes, but is not limited to production, sale or lease of crops (plants), livestock, horses, poultry, fish, bees, and pets including the breeding and grazing of animals.

**Bluff.** "Bluff" means a topographic feature such as a hill, cliff, or embankment having the following characteristics:

- 1) Part or all of the feature is located in a shoreland area.
- 2) The slope rises at least twenty-five (25) feet above the toe of the bluff.
- 3) The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the toe of the bluff averages thirty percent (30%) or greater; except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff.
- 4) The slope must drain toward the waterbody.



**Bluff Impact Zone.** "Bluff Impact Zone" means a bluff and land located within twenty (20) feet from the top of a bluff.

**Boathouse.** "Boathouse" means a separate structure used solely for the storage of licensed watercraft and boating equipment, provided it shall not be used for habitation and shall not contain sanitary facilities.

**Buildable Area.** “Buildable Area” means the contiguous area of a lot which is sufficient in area to accommodate the construction of water supply systems, sewage treatment systems, structures and driveways, and to provide adequate

setbacks. Areas which are floodway, wetlands, and stormwater detention/retention ponds, rights-of-way, septic system setbacks as defined in this ordinance, and slopes in excess of 25% cannot be included in calculating the buildable area of a lot.

**Building Line.** "Building Line" means a line parallel to a lot line or the Ordinary High Water Level (OHWL) at the required setback beyond which a structure may not exceed.

**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. A campground 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.

**Commercial Planned Unit Developments.** "Commercial Planned Unit Developments" are new developments on undeveloped land that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

**Commercial Use.** "Commercial Use" means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

**Commissioner.** "Commissioner" means the Commissioner of the Department of Natural Resources.

**Conditional Use.** "Conditional Use" means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

**County.** "County" means Pine County, Minnesota.

**Deck.** "Deck" means a horizontal unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to

a principal use or site. This shall exclude unenclosed on-grade slabs and patios.

**Driveway.** "Driveway" means a road serving as vehicular access to a parcel of land which is not dedicated to the public but is owned by one or more private parties.

**Duplex, Triplex, and Quad.** "Duplex, Triplex, and Quad" means a dwelling structure on a single lot, having two, three and four units, respectively, being attached by common walls and each unit is equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

**Dwelling Site.** "Dwelling Site" means a designated location for residential use by one (1) or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

**Dwelling Unit.** "Dwelling Unit" means any structure or portion of a structure or other shelter designed as short-term or long-term living quarters for one (1) or more persons, including rental or time-share accommodations such as motel, hotel, and resort rooms and cabins.

**Essential Services.** "Essential Services" means all overhead or underground electrical gas, steam or water transmission or distribution systems and Structures, or collection, communication, supply or disposal systems and Structures, use by public utilities or governmental departments or commissions, or as are required for protection of the public health, safety, or general welfare, including towers, poles, wires, substations, mains, drains, sewers, pipes, fire dorm boxes, police call boxes and accessories in connection therewith, but not including buildings. For the purpose of this ordinance, the word "building" does not include "structure" for essential services.

**Event Venue.** "Event Venue" includes but is not limited to for-profit wedding venues, retreats, arts and entertainment venues and other such facilities.

**Extractive Use.** "Extractive Use" means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals, and pent not regulated under Minnesota Statutes, Sections 93.44 to 93.51.

**Forest Land Conversion.** "Forest Land Conversion" means the removal of forest vegetative cover to prepare for a new land use other than re-establishment of a subsequent forest stand.



**Guest Cottage.** "Guest Cottage" means a structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

**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.

**Height of Building.** "Height of Building" means the vertical distance between the highest adjoining ground level at the building or ten (10) feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

**Home Occupation.** "Home Occupation" means a use of non-residential nature conducted entirely within the dwelling or accessory structures and carried on only by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes, and which does not include an operational activity that is or may be a nuisance to or otherwise incompatible with the surrounding area.

**Hotel or Motel.** "Hotel or Motel" means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping or housekeeping accommodations are supplied for pay to guests for transient occupancy. Includes bed and breakfasts.

**Impervious Surface.** "Impervious Surface" means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, decks, sidewalks, patios, paver block patios, storage areas, and concrete, asphalt, or gravel driveways.

**Industrial Use.** "Industrial Use" means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

**Intensive Vegetation Clearing.** "Intensive Vegetation Clearing" means the complete or nearly complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

**Interim Use.** "Interim Use" means a temporary use of property until a specific date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

**Junk and Debris.** “Junk and Debris” means the accumulation of scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, ferrous material, non-ferrous material, inoperable and/or unlicensed motor vehicles, recreational vehicles, agricultural, or construction machinery and parts thereof.

**Junk Vehicles.** “Junk Vehicles” means a vehicle that: (a) is extremely damaged with the damage including such things as broken or missing wheels, motor, drive train or transmission; (b) is apparently inoperable; (c) does not display current registration; or, (d) has an approximate fair market value equal to or less than the value of the scrap in it.

**Lot.** "Lot" means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

**Lot Width.** "Lot Width" means the shortest distance between lot lines measured at the building line.

**Low-Impact Campground.** “Low-Impact Campground” means a campground consisting of fifteen (15) or fewer campsites, meeting the performance standards of Section 5.6.8.

**Major Appliances.** “Major Appliances” means products including but not limited to: washers, dryers, electric and gas range stoves, refrigerators, freezers, dehumidifiers, water heaters, residential furnaces, dishwashers, garbage disposal trash compactors, microwave ovens, air conditioners, and heat pumps.

**Manufactured Home.** “Manufactured Home” means a structure, transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. This includes park models regardless of their length.

**Manufactured Home Park.** “Manufactured Home Park” means any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

**Marina.** “Marina” means either an inland or offshore commercial mooring facility for the concentrated mooring of seven (7) or more watercraft and/or seaplanes wherein commercial ancillary services common to marinas are provided, including but not limited to the sale of food, beverages, and gasoline.

**Metallic Minerals and Peat.** “Metallic Minerals and Peat” the meaning given under Minnesota Statutes, Sections 93.44 to 93.51.

**Nonconforming Sewage Treatment System.** “Nonconforming Sewage Treatment System” means those septic systems, outhouses, or privies that do not provide for adequate treatment of sewage or meet specific setback requirements. They include: (1) cesspools; (2) leaching pits; (3) drywells; (4) seepage pits; (5) systems with less than three feet of unsaturated soil or sand between the bottom of the drainfield or mound rockbed and the limiting soil characteristic, which includes a seasonal high water table as evidenced by the presence of ground water, mottled soil, or bedrock; (6) systems discharging sewage to: (a) the surface (including tile lines), (b) active or unused wells, (c) bodies of surface waters, or, (d) any rock or soil formations that are not conducive to purification of water by filtration; (7) systems that do not meet well setback requirements; (8) systems where any part of the system is under a building; (9) privies with less than three feet of separation from the bottom of an open pit to the limiting soil characteristics described in item (5), above; (10) privies with sealed containers that do not meet the capacity and construction requirements of Minnesota Rule 7080, Subp. 4. B. (2) (b); (11) septic systems where the septic tank does not meet the minimum Setback of 10’ from an occupied dwelling with a basement; and (12) lack of a septic system if running water is available to the property.

**Nonconformity.** “Nonconformity” means any legal use, structure, or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto, that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

**Ordinary High Water Level.** “Ordinary High Water Level” (OHWL) means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the OHWL is the elevation of the top of the immediate bank of the channel. For reservoirs and flowages, the OHWL is the operating elevation of the normal summer pool.

**Park.** “Park” means an area or portion of an area dedicated or designated by any Federal, State, tribal, or local agency primarily for public recreational use, whether or not such use is limited to certain times or days, including any land leased, reserved, or held open to the public because of that use.

**Planned Unit Development.** "Planned Unit Development" (PUD) means a type of development characterized by a unified site designed for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide access to common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

**Public Road.** "Public Road" means a right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated a street, highway, thoroughfare, parkway, thoroughway, road, avenue, boulevard, land, place, or however otherwise designated. Ingress and egress easements shall not be considered roads.

**Public/Semipublic Use.** “Public/Semipublic” means the use of land by a public, non-profit, not-for-profit, or private organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

**Public Waters.** "Public Waters" means any waters as defined in Minnesota Statutes, Section 105.37 Subdivisions 14 and 15.

**Recreational Camping Vehicle.** “Recreational Camping Vehicle” means the following:

- 1) any vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses;
- 2) any structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation;
- 3) any portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle; or
- 4) any folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

**Residential Planned Unit Development.** "Residential Planned Unit Development" means a new use on undeveloped land 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.

**Resort.** "Resort" means a building, structure, enclosure, or any part thereof located on, or on property neighboring any lake, stream, skiing or hunting area, or any recreational area for purposes of providing convenient access thereto, kept, used, maintained, or advertised as, or held out to the public to be a place where sleeping accommodations are furnished to the public, and primarily to those seeking recreation for periods of one day, one week, monthly, or longer, and having for rent five or more cottages, rooms, or enclosures.

**Restaurant.** "Restaurant" means a food and beverage service establishment, whether the establishment serves alcoholic or nonalcoholic beverages, which operates from a location for more than 21 days annually. Restaurant does not include a food cart or a mobile food unit.

**Self-Storage Garage.** "Self-Storage Garage" means any building which provides individual storage units or areas which may be accessed only by the individual who is storing materials in the unit or area. Any structure containing two (2) or more such storage units shall be considered a Self-Storage Garage. Vehicle or parts maintenance and sales, including gasoline and fuel sales, and the equipping, repair, maintenance, hire or sale of vehicles or part may not take place in or around a self-storage garage.

**Sensitive Resource Management.** "Sensitive Resource Management" means the preservation and management of areas unsuitable for development in their natural state due to constraints, including but not limited to shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

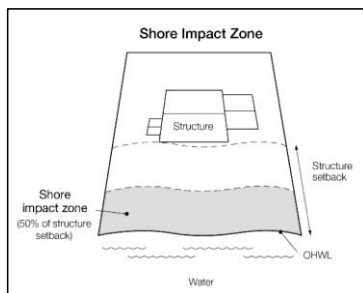
**Setback.** "Setback" means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an OHWL, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

**Sewage Treatment System.** "Sewage Treatment System" means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 5.7 of this ordinance.

**Sewer System.** "Sewer System" means pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances

used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

**Shore Impact Zone.** "Shore Impact Zone" means land located between the OHWL of a public water and a line parallel to it at a setback of fifty percent (50%) of the structure setback.



**Shoreland.** "Shoreland" means land located within the following distances from public waters: 1,000 feet from the OHWL of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

**Short-Term Rental.** "Short-Term Rental" means any home, cabin, condominium, or similar buildings represented to the public as a place where sleeping accommodations are furnished to the public on a nightly or weekly basis and for less than thirty days for compensation, and is not a bed and breakfast, resort, hotel, or motel.

**Significant Historic Site.** "Significant Historic Site" means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be on unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the State Historic Preservation Office. All unplatted cemeteries are automatically considered to be significant historic sites.

**Steep Slope.** "Steep Slope" means land where agricultural development or activity is either not recommended or described as poorly suited due to slope steepness

and the site's soil characteristics, as mapped and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and forming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, Steep Slopes are lands having average slopes over twelve percent (12%), as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.

**Structure.** "Structure" means any building, mobile home or appurtenance, including decks, except aprons, sidewalks, slabs, fences, and aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

**Subdivision.** "Subdivision" means land that is divided for the purpose of sale, rent, or lease, including PUD's.

**Surface Water-oriented Commercial Use.** "Surface Water-oriented Commercial Use" means the use of land for commercial purposes, where access to and use of surface water feature is an integral part of the normal conductance of business, including but not limited to Marinas, resorts, and restaurants.

**Toe of the Bluff.** "Toe of the Bluff" means the lower point of a 50-foot segment with an average slope exceeding 18 percent or the OHWL, whichever is higher.

**Top of the Bluff.** "Top of the Bluff" means the higher point of a 50-foot segment with an average slope exceeding 18 percent.

**Township.** "Township" means Windemere Township, Pine County, Minnesota.

**Travel Trailer.** "Travel Trailer," means a trailer mounted on wheels, that is designed to provide temporary human living quarters during recreation, camping or travel, that does not require a special highway movement permit based on its size or weight when towed by a motor vehicle that does not exceed 102 inches in width and 40 feet in length.

**Variance.** "Variance" means the same as that term is defined or described in Minnesota Statutes, Chapter 394.

**Waste Tire.** "Waste Tire" means products made of rubber or other resilient material product, which is used on a vehicle or other equipment wheel to provide tread, which is discarded or which cannot be used as originally intended because it is used, damaged or defective. A tire that is used for recreational purposes on residential property in a manner which does not collect water,

or for use in securing cover for agricultural materials on agricultural property, is not considered to be a "Waste Tire".

**Water-oriented Accessory Structure or Facility.** "Water-oriented Accessory Structure or Facility" means a structure up to 100 square feet that is located outside any impact zone, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. These structures shall only include: storage sheds, gazebos, screen houses, pump houses (not exceeding sixteen (16) sq. ft.), saunas, detached decks and patios.

**Wetland.** "Wetland" means all types and sizes of lands which meet the Wetland definition as outlined in the January, 1989 "Federal Manual for Identifying and Delineating Jurisdictional Wetlands."

## **Section 3.0 Administration**

### **3.1 Townships Coordinator**

The office of the Zoning Administrator is hereby established, for which the Board of Township Supervisors may appoint such employee or employees of the Township as it may deem proper.

3.1.1 Duties. The Township Coordinator shall:

- A. Enforce and administer the provisions of this ordinance;
- B. Issue permits and certificates of occupancy and maintain records thereof;
- C. Receive and forward to the Planning Commission all applications for Conditional Use permits;
- D. Receive and forward all applications and petitions for matters to come before the Board of Adjustment;
- E. Receive and forward to the Township Planning Commission all applications for amendments to this ordinance;
- F. Inspect all construction and development to ensure that the standards of this ordinance are being complied with;
- G. Provide and maintain a public information bureau relative to matters arising out of this ordinance;



- H. Maintain the Windemere Township Official Shoreland Zoning Maps;
- I. File all matters required by Minnesota Statutes 394.27, Subdivision 8 and 394.301, Subdivision 4; and
- J. Perform any additional duties required in the administration and enforcement of this ordinance and the Windemere Township Subdivision and Platting Ordinance.

### **3.2 Board of Adjustment**

The existing Windemere Township Board of Adjustment is hereby recognized and vested with such authority as provided by statutes and ordinances. It shall be composed and act as set forth in the Windemere Township Subdivision and Platting Ordinance.

3.2.1 The Board of Adjustment shall have the following powers:

- A. To grant a variance as provided by statute and in this ordinance.
- B. To interpret zoning district boundaries on official zoning maps.
- C. To permit the extension of a zoning district where the boundary line thereof divides a lot in one (1) ownership of the time of the passage of this ordinance, but such extension of any district shall not exceed one hundred (100) feet.
- D. To act upon all questions as they may arise in the administration of this ordinance; and to hear and decide appeals from and to review any order, requirements, decision or determination made by an administrative official charged with enforcing this ordinance.

### **3.3 Planning Commission**

The existing Windemere Township Planning Commission is hereby recognized and vested with such authority as provided by statutes and ordinances. It shall be composed, and act as set forth in the Windemere Township Subdivision and Platting Ordinances.

3.3.1 The Planning Commission shall have the following powers:

- A. To order the issuance of conditional and interim use permits.
- B. To make recommendations to the Township Board of Supervisors on applications for amendments to this ordinance.

- C. To perform any additional duties in their capacity that will serve the public interest and desires of the Township Board of Supervisors.

### **3.4 Permits Required**

- 3.4.1 A permit is required for the construction of structures or structural additions (including but not limited to such related activities as construction of decks), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 5.3 of this ordinance. Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include such other information deemed necessary by the Zoning Administrator to ensure proper enforcement of this and any other ordinance(s), and so that a determination can be made regarding the sites suitability for the intended use and that a compliant sewage treatment system will be provided.
- 3.4.2 Any permit or variance which authorizes any type of improvement or use of the property shall stipulate that an identified non-conforming sewage treatment system, as defined by Section 5.7, shall be reconstructed or replaced in accordance with the provisions of this ordinance.

### **3.5 Certificate of Zoning Compliance**

The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 3.4 of this ordinance. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided in Section 2.3 of this ordinance.

### **3.6 Variances from Standards**

The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances may only be granted in accordance with Minnesota Statutes, Chapter 394. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The Board of Adjustment may impose a condition or conditions in granting variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the Variance. Variances may be granted when all of the following conditions are met:

- 3.6.1 The applicant's proposed use is allowed in the zoning district in which the subject property is located.

- 3.6.2 The variance is in harmony with the comprehensive plan.
- 3.6.3 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.
- 3.6.4 If granted, the variance may not alter the essential character of the locality.
- 3.6.5 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 criteria listed in 3.6.1-3.6.4 of this ordinance.
- 3.6.6 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.
- 3.6.7 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 below shall also include the Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance, of the variance.
- 3.6.8 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 nonconforming sewage treatment system.
- 3.6.9 Variance applications for structure setbacks, impervious surface, or other standards of this ordinance may volunteer variance mitigation consistent with the practices set forth in this section, to strengthen consistency with variance criteria of Minnesota Statute 394.27.

#### A. Mitigation

The following example variance mitigation activities may be volunteered.

- 1) Maintain, restore and maintain, or plant and maintain a 10' wide natural vegetated buffer zone, parallel and adjacent to the OHWL (may be done for multiple increments). An access strip, may be

included to maintain access to the lake.

- 2) Maintain, restore and maintain, or plant and maintain a 10' wide natural vegetated buffer along the top of a bluff or steep slope.
- 3) Removal of structures or patios that do not meet the standard structure setbacks, including water-oriented structures.
- 4) Maintain impervious surfaces (excluding bedrock) to at most half of the applicable ordinance maximum (12.5% impervious or less).
- 5) Reduction of 5% impervious surfaces excluding bedrock (may be done for multiple increments).
- 6) Re-vegetate bluff or steep slopes with natural vegetation.
- 7) Provide screening of structures from the lake (may be done for multiple increments).
- 8) Diversion of all water runoff from impervious surfaces (excluding bedrock) away from the water body into retention ponds, subsurface drains, wetlands, etc, with no outlet to the lake or tributary.
- 9) Stabilize eroding shoreline with natural vegetation. Any grading must follow natural contours of shoreline.
- 10) Installation of 150 square foot natural vegetation infiltration area, within 150' of the OHWL (may be done for multiple increments).

B. All approved variance mitigation plans must be executed within twelve (12) months of the permit issuance date for the project receiving a variance unless a different execution date is otherwise agreed upon by the applicant and Board of Adjustment.

### **3.7 Conditional Uses**

#### **3.7.1 Application for conditional use permit**

Any use listed as a conditional use in this ordinance shall be permitted only upon application to the Planning Commission through the Zoning Administrator and issuance of a Conditional Use Permit (CUP) by the Zoning Administrator upon order of the Planning Commission.

#### **3.7.2 Standards applicable to all conditional uses**

In passing upon a CUP, the Planning Commission shall evaluate the effect of the proposed use upon:

- A. The maintenance of safe and healthful conditions;
- B. The prevention and control of water pollution including sedimentation;
- C. Existing topographic and drainage features and vegetative cover on the site;
- D. The location of site with respect to flood plains and floodways of rivers or streams;
- E. The erosion potential of the site based upon degree and direction of slope, soil type, and vegetative cover;
- F. The location of the site with respect to existing or future access roads;
- G. The need of the proposed use for a shoreland location:
- H. The visibility of structures and other facilities as viewed from public waters is limited;
- I. The site is adequate for water supply and on-site sewage treatment;
- J. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of Public Waters to safely accommodate these watercraft;
- K. Its compatibility with uses on adjacent land;
- L. The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems; and
- M. Locational factors under which:
  - 1) domestic uses shall be generally preferred;
  - 2) uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source; and
  - 3) use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

- N. The CUP will not be detrimental to the use and enjoyment or property values of other properties, especially those within 500' of the subject property.
- O. Adequate measures are included to provide off-street parking to serve the proposed use, as no on-street parking is allowed.

### 3.7.3 Conditions attached to conditional uses

Upon consideration of the factors listed above, the Planning Commission may attach such conditions, in addition to those required elsewhere in this ordinance, that it deems necessary in furthering the purposes of this ordinance. Violation of any of these conditions shall be deemed a violation of this ordinance. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; locations of piers, docks, parking and signs; type of construction or any other requirements necessary to fulfill the purpose and intent of this ordinance.

In order to secure information upon which to base its determination, the Planning Commission may require the applicant to furnish, in addition to the information required for a zoning permit, the following information.

- A. A plan of the area showing contours, soil types, high water mark, groundwater conditions, bedrock, slope, and vegetative cover.
- B. Location of buildings, parking areas, traffic access, driveways, walkways, piers, open spaces, and landscaping.
- C. Plans of buildings, sewage disposal facilities, water supply systems, and arrangements of operations.
- D. Specifications for areas of proposed filling, grading, lagooning, or dredging.
- E. Other pertinent information necessary to determine if the proposed use meets the requirements of this ordinance.

## 3.8 Interim Uses

### 3.8.1 Purpose and Intent

- A. To allow a use for a limited period of time that reasonably utilized the property in a manner not permitted in the applicable zoning district.
- B. To allow a use that is presently acceptable, but not permitted within the zoning districts described in Sections 4.3 through 4.7.

3.8.2 Procedure

The application, public notice, public hearing, and procedure requirements for interim use permits shall be the same as those for conditional use permits as provided in M.S. 394.26

3.8.3 Standards applicable to all interim uses

The Township Board shall issue interim use permits only if it finds that such use at the proposed location:

- A. Meets the standards of a CUP set forth in section 3.7 of this ordinance.
- B. Conforms to the zoning regulations and standards of this ordinance.
- C. Will terminate upon a specific date or event specified in the Township Board's approval of said interim use permit.
- D. Will not impose additional costs on the public if it is necessary for the public to remediate or restore the property back to compliance in the future.
- E. Will be subjected to any conditions that the Zoning Board has deemed appropriate for permission of the use which may include a condition that the owner will provide an appropriate financial surety to cover the cost to remediate or restore the property back to compliance in the future.
- F. Meets all other requirements set forth in M.S. 394.303

3.8.4 Termination of interim use permit.

An interim use permit shall terminate upon the occurrence of any of the following events; whichever occurs first:

- A. The date or event specified in the permit.
- B. A violation of the conditions under which the permit was issued.
- C. A change in the Township's zoning regulations that no longer permits the use

D. Upon the written request of the permittee.

3.8.5 No more than one interim use permits shall be granted to a single property at one time.

### **3.9 Shoreland Zoning Amendments**

The Township Board may adopt amendments to the shoreland ordinance and zoning map in relation both to the provisions within a particular district or to the location of the district lines. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies or changes in conditions of the Township.

#### 3.9.1 Kinds of amendments

- A. A change in a district's boundary (rezoning)
- B. A change in a district's regulations
- C. A change in any other provision of this ordinance

#### 3.9.2 Initiation of proceedings

- A. Proceedings for amending this ordinance shall be initiated by at least one (1) of the following three (3) methods:
  - 1. By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed
  - 2. By recommendation of the Planning Commission
  - 3. By action of the Township Board

#### 3.9.3 Required exhibits for rezoning or district regulation changes initiated by property owners

- A. A preliminary building or structure and site development plan. Site plan requirements are as listed in Section 3.4.1 of this ordinance.
- B. Evidence of ownership or enforceable option or easement on the property.

#### 3.9.4 Procedure

- A. The procedure for a property owner to initiate a rezoning or district regulation change applying to this property is as follows:



1. The applicant completes the application form and pays the required filing fee with the Zoning Administrator.
2. The Planning Commission reviews the request, sets the public hearing, and prepares the notices.
3. The Planning Commission prepares its recommendation after the public hearing and forwards it to the Township Board.
4. The Township Board takes final approval or denial action on the amendment request.

### **3.10 Notifications to the Department of Natural Resources**

- 3.10.1 Copies of all notices of any public hearings to consider variances, amendments, interim uses, or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- 3.10.2 A copy of approved amendments and subdivisions/plats and final decisions granting variances, interim uses, or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten (10) days of final action.
- 3.10.3 In addition to formal notifications, the Township may request that all written responses be forwarded to the applicant prior to any hearings. Failure to receive any such written comments by the applicant shall not invalidate any hearings.

## **Section 4.0 Shoreland Classification System and Land Use Districts**

### **4.1 Shoreland Classification System**

The public waters of Windemere Township, Minnesota have been classified below consistent with the criteria found in Minnesota Rules, Part 6120.3330, and the Protected Waters Inventory Map for Pine County, Minnesota.

4.1.1 The shoreland for the waterbodies listed in Sections 4.1.2 and 4.1.3 shall be as defined in Section 2.7 and as shown on the official zoning map.

4.1.2 Lakes

A. Natural Environment Lakes

Protected Lakes Inventory I.D. #	Lake Home	Township	Range	Section
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58-61	East Island	45	19	3
58-63	Lords	45	19	5,6,7,8
58-70	Thirteen	45	19	13
58-71	Close	45	19	18
58-73	Dago Lake	45	19	19,30

58-74	Johnson Lake	45	19	21
58-75	Willow	45	19	26,34,35
58-77	Big Slough	45	19	28,33
58-79	Turtle	45	19	29
58-80	L'Named	45	19	29,30

B. Recreational Development Lakes

Protected Lakes Inventory I.D. #	Lake Name	Township	Range	Section
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58-62	Island Lake	45	19	3,4,8,9
58-67	Sturgeon	45	19	9,10,15,16,17,20,21
58-68	Eleven Lake	45	19	11
58-69	Twelve Lake	45	19	12
58-76	Passenger	45	19	28,29,32,33
58-78	Rush Lake	45	19	28,29
58-81	Sand Lake	45	19	4,5,6

#### 4.1.3 Rivers and Streams

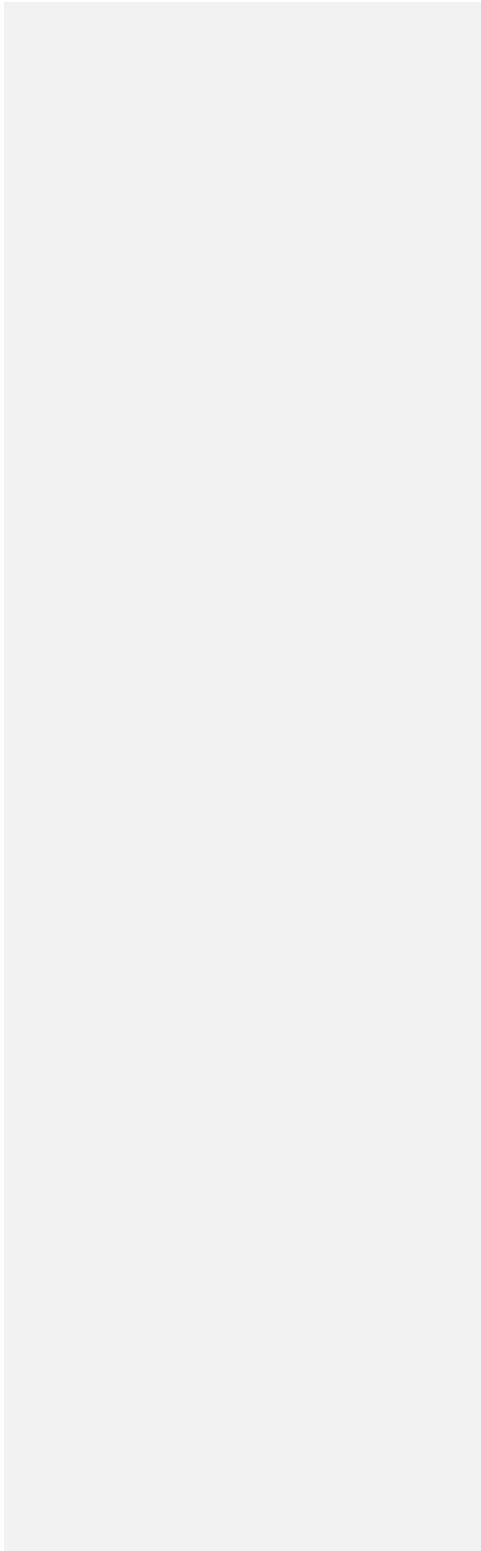
*PLEASE NOTE* that portions of the Willow River, as a designated tributary to the Kettle River, will be affected by MN rules, Parts 6105.0110, Subp. 3, Item B, subitem (3) and 105.0120 relating to statewide standards and criteria for Wild, Scenic and Recreational Rivers.

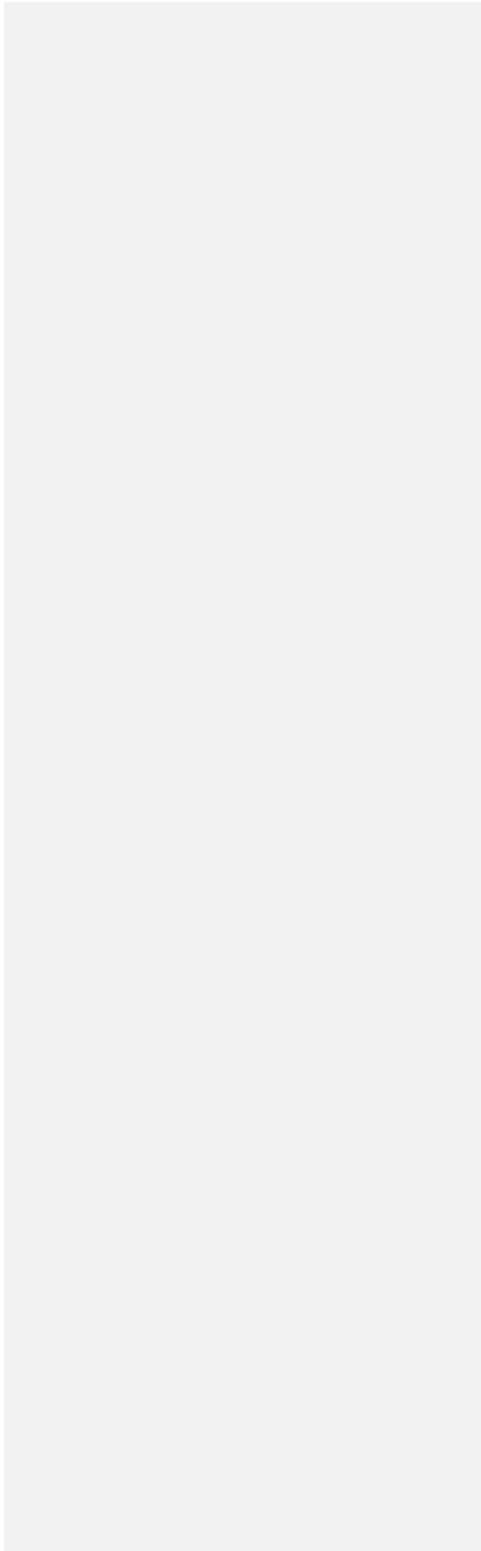
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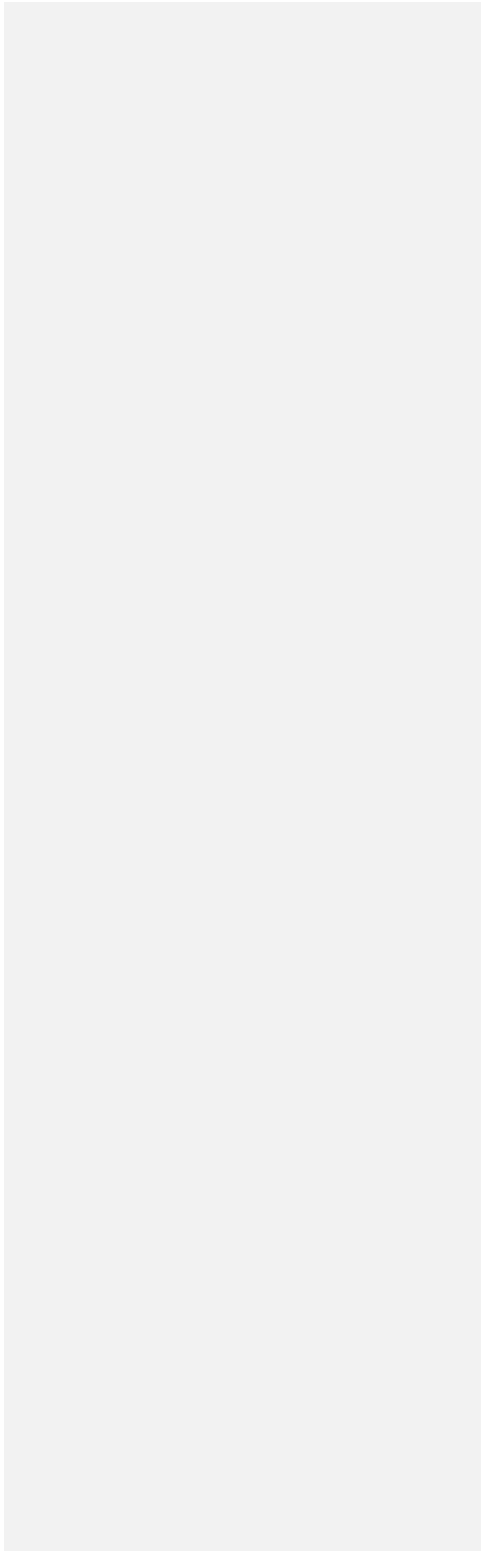
A. Tributary Streams

Stream Name	Township	Range	Section
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Willow River	45	19	25,26,31,32,33,34,35
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Little Willow River	45	19	35
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Hay	45	19	24, 25
Unnamed	45	19	5
Big Slough Creek	45	19	22,27,28,33

## 4.2 Land Use District

The following land use zoning districts have been established in accordance with their compatibility with the public waters classification.

- 4.2.1 The shorelands of Windemere Township, Minnesota are hereby divided into the following districts:
- A. Special Protection District (SP)
  - B. Residential—Recreational District (RR)
  - C. High Density Residential District (HDR)
  - D. Water—oriented Commercial District (WC)
  - E. Water-oriented Commercial Residential District (WCR)
  - F. General Use District (GU)
  - G. Forest Management District (FM).

- 4.2.2 The location and boundaries of the districts established by this ordinance are set forth on the zoning map which is hereby incorporated as part of this ordinance. A copy of the official zoning map shall be kept in the Township Coordinator's office. It is the responsibility of the Township Coordinator to continually maintain and update this map. Any amendments to the zoning map shall be recorded on such map within thirty (30) days after the official adoption of the zoning amendment by the Windemere Township Board.
- 4.2.3 Final determination of the exact location of land use district boundaries shall be made by the Township Coordinator, subject to appeal to the Board of Adjustment as provided in Section 3.2 of this ordinance.
- 4.2.4 Areas within the 100 year floodplain that are not shown on the official zoning map as having a land use zoning district as described in this section, shall be assigned a zoning district by the Township Coordinator that conforms to the zoning district most directly upstream of the subject property for rivers and streams. For lakes, the Township Coordinator shall assign a district that conforms to the neighboring properties land use district, where it can be shown conclusively what the zoning district of the locality is intended to be. Where it cannot be shown conclusively what the intended land use district is, the Township Coordinator shall consult the Township Board or their designee and/or initiate an ordinance amendment, amending the zoning map.

### **4.3 Districts and Purposes**

#### **4.3.1 Special Protection District (SP) Purpose**

The SP District is intended to be used for two basic purposes. The first purpose is to limit and properly manage development in areas that are generally unsuitable for development or uses due to flooding, erosion, limiting soil conditions, steep slopes, or other major physical constraints. A second purpose is to manage and preserve areas with special historical, natural, or biological characteristics.

#### **4.3.2 Residential Recreational District (RR) Purpose**

The purpose of the RR District is primarily intended to allow low to medium density seasonal and year round residential uses on lands suitable for such uses. It is also intended to prevent establishment of various commercial, industrial,

and other uses in these areas that cause conflicts or problems for residential uses. Some non-residential uses with minimal impacts on residential uses are allowed if properly managed under conditional use or interim use procedures.

#### 4.3.3 High Density Residential District (HDR) Purpose

The purpose of the HDR District is intended for use on lands with heterogeneous mixes of soils, vegetation, and topography that are not well suited to residential development using standard, lot-block subdivisions. This approach enables such areas to be developed, often even with higher than lot-block densities, while also avoiding and preserving unsuitable terrain and soils. Other compatible uses include but are not limited to residential planned unit development, surface water-oriented commercial, multiple unit, single family, parks, short-term rentals, historic sites, and semi-public are also allowed, primarily as conditional or interim uses.

#### 4.3.4 Water-oriented Commercial District (WC) Purpose

The purpose of the Water-oriented Commercial District (WC) is intended to be used only to provide for existing or future commercial uses adjacent to water resources that are functionally dependent on such close proximity.

#### 4.3.5 General Use District (GU) Purpose

The purpose of the GU District is intended to be used only for lands already developed or suitable for development with concentrated urban, particularly commercial land uses. It should not generally be used on natural environment lakes or remote river classes. Several other intensive urban uses such as industrial and commercial planned unit developments are allowed in this district if handled as conditional uses.

#### 4.3.6 Forest Management District

The purpose of the Forest Management District is intended to ensure that certain forest and agricultural lands are protected and managed both as a natural resource and to produce products on a continuing basis in those areas best suited for these purposes. Minimal government services are provided in this district. The forest areas also help maintain the natural character of the township, and can be valuable for dispersed recreational uses.

### 4.4 Allowed Uses

Allowed uses for each district are shown in Sections 4.4.1 thru 4.4.10. Uses not specifically listed as allowed uses in a district shall be prohibited in that district,

unless granted under the provisions of Section 6 of the Windemere Township Shoreland Ordinance. All uses shall comply with all applicable state and federal regulations, and shall meet the applicable setbacks for the district in which the use is located. For the lake and river classes, districts, and uses in this subpart, P = permitted uses, C = conditional uses, I = interim uses, and N = prohibited uses.

#### 4.4.1 Lake Classes in Special Protection District

Use	General development	Recreational development	Natural environment
Forest management	P	P	P
Sensitive resource management	P	P	P
Agricultural: cropland and pasture	P	P	P
Agricultural feedlots	C	C	C
Parks and historic sites	C	C	C
Extractive use	C	C	C
Mining of metallic minerals and peat	C	C	C
Single residential	C	C	C
Home Occupations	C	C	C
Essential Services	P	P	P
Short-term Rental	I	I	I

#### 4.4.2 Lake Classes in Residential Recreational District

Use	General development	Recreational development	Natural environment
Single residential	P	P	P
Duplex, triplex, quad residential	P	P	C

Semipublic	C	C	C
Parks and historic sites	C	C	C
Extractive use	C	C	C
Forest management	P	P	P
Mining of metallic minerals and peat	C	C	C
Essential Services	P	P	P
Short-term Rental	I	I	I
Home Occupations	P	P	P

#### 4.4.3 Lake Classes in High Density Residential District

Use	General development	Recreational development	Natural environment
Single residential	P	P	P
Duplex	P	P	P
Residential planned unit developments	C	C	C
Surface water oriented commercial	C	C	C
Semipublic	C	C	C
Parks and historic sites	C	C	C
Forest management	P	P	P
Essential Services	P	P	P
Short-term Rental	I	I	I
Home Occupations	P	P	P

#### 4.4.4 Lake Classes in Water-Oriented Commercial District

Use	General development	Recreational development	Natural environment
Surface water-oriented commercial	C	C	C
Commercial planned unit development	C	C	C

Public, semipublic	C	C	C
Parks and historic sites	C	C	C
Forest management	P	P	P
Essential Services	P	P	P

#### 4.4.5 Lake Classes in General Use District

Use	General development	Recreational development	Natural environment
Commercial	P	P	C
Commercial planned unit development	C	C	C
Industrial	C	C	N
Public, semipublic	P	P	C
Extractive use	C	C	C
Parks and historic sites	C	C	C
Forest management	P	P	P
Mining of metallic minerals and peat	P	P	P
Essential Services	P	P	P
Self-Storage Garage	C	C	C

#### 4.4.6 River Classes in Special Protection District

Use	Remote	Forested	Transition	Tributary
Forest management	P	P	P	P
Sensitive resource management	P	P	P	P

Agricultural: cropland and pasture	P	P	P	P
Agricultural feedlots	C	C	C	C
Parks and historic sites	C	C	C	C
Extractive use	C	C	C	C
Mining of metallic minerals and peat	P	P	P	P
Single residential	C	C	C	C
Essential Services	P	P	P	P
Short-term Rental	I	I	I	I
Home Occupations	C	C	C	C

#### 4.4.7 River Classes in Residential Recreational District

Use	Remote	Forested	Transition	Tributary
Single residential	P	P	P	P
Duplex, residential	C	C	C	C
Semipublic	C	C	C	P
Parks and historic sites	C	C	C	P
Extractive use	C	C	C	C
Forest management	P	P	P	P
Mining of metallic minerals and peat	P	P	P	P
Essential Services	P	P	P	P
Short-term Rental	I	I	I	I
Home Occupations	P	P	P	P

#### 4.4.8 River Classes in High Density Residential District

Use	Remote	Forested	Transition	Tributary
Single residential	P	P	P	P
Duplex, residential	P	P	P	P



Residential planned unit developments	C	C	C	C
Surface water oriented commercial	C	C	C	C
Semipublic	C	C	C	C
Parks and historic sites	C	C	C	C
Forest management	P	P	P	P
Essential Services	P	P	P	P
Short-term Rental	I	I	I	I
Home Occupations	P	P	P	P

#### 4.4.9 River Classes in Water-Oriented Commercial District

Use	Remote	Forested	Transition	Tributary
Surface water-oriented commercial	C	C	C	C
Commercial planned unit development	C	C	C	C
Public, semipublic	C	C	C	P
Parks and historic sites	C	C	C	C
Forest management	P	P	P	P
Essential Services	P	P	P	P

#### 4.4.10 River Classes in General Use District

Use	Remote	Forested	Transition	Tributary
Commercial	C	C	C	C
Commercial planned unit development	C	C	C	C

Industrial	N	C	N	C
Public, semipublic	C	C	C	C
Extractive use	C	C	C	C
Parks and historic sites	C	C	C	C
Forest management	P	P	P	P
Mining of metallic minerals and peat	P	P	P	P
Essential Services	P	P	P	P

## Section 5.0 Zoning and Water Supply/Sanitary Provisions

### 5.1 Permits, Lot Area and Width Standards

All structure, regardless of size, requires a permit be issued prior to the start of construction. The Lot area (in square feet) and Lot Width standards, as measured at the building line and at the OHWL (in feet), for single, duplex, residential lots created after the date of enactment of this ordinance for the lake and river/stream classifications are the following:

#### 5.1.1 Unsewered Lakes

##### A. Natural Environment

	<u>Riparian Lots</u>		<u>Non-Riparian Lots</u>	
	Area	Width	Area	Width
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400

##### B. Recreational Development

	<u>Riparian Lots</u>	<u>Non-Riparian Lots</u>
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	Area	Width	Area	Width
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265

C. General Development

	<u>Riparian Lots</u>		<u>Non-Riparian Lots</u>	
	Area	Width	Area	Width
Single	40,000	150	40,000	150
Duplex	50,000	200	80,000	265

5.1.2 Sewered Lakes

A. Natural Environment

	<u>Riparian Lots</u>		<u>Non-Riparian Lots</u>	
	Area	Width	Area	Width
Single	40,000	125	20,000.	125
Duplex	70,000	225	35,000	220

B. Recreational Development

	<u>Riparian Lots</u>	<u>Non-Riparian Lots</u>
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	Area	Width	Area	Width
Single	20,000	100	15,000	100
Duplex	35,000	150	26,000	150

C. General Development

	<u>Riparian Lots</u>		<u>Non-Riparian Lots</u>	
	Area	Width	Area	Width
Single	15,000	100	10,000	100
Duplex	26,000	150	17,500	150

5.1.3 River/Stream Lot Width Standards. The minimum lot size requirements for rivers and streams is 40 acres. The lot width standards for single, duplex, residential development for the four (4) river/stream classifications are:

	Remote	Forested	Transition	Tributary- Natural Environment Tributary (Trout Streams)	Non Sewer	Tributary- Sewer
Single	350	200	250	200	150	75
Duplex	450	300	375	300	150	115

5.1.4 Additional Special Provisions

- A. Residential subdivisions with dwelling unit densities exceeding those in the tables in Sections 5.1.2 and 5.1.3 can only be allowed if designed and approved as residential PUD's under Section 8.0 of this ordinance. Only land above the OHWL of public waters can be used to meet lot area standards and lot width standards must be met at both the OHWL and at the building line. The sewer lot area dimensions in Section 5.1.2 can only be used if publicly owned Sewer System service is available to the property.
- B. Subdivisions of duplexes, triplexes, and quads on natural environment lakes must also meet the following standards:
  - 1. Each building must be setback at least two hundred (200) feet from the OHWL.
  - 2. Each building must have common sewage treatment and water system in one (1) location and serve all dwelling units in the building.
  - 3. Watercraft docking facilities for each lot must be centralized in one (1) location and serve all dwelling units in the building.
  - 4. No more than twenty-five percent (25%) of a lake's shoreline can be in duplex, triplex, or quad developments.
- C. One (1) guest cottage or guest quarters may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Sections 5.1.1-5.1.3, provided the following standards are met:
  - 1. 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.
  - 2. A guest cottage must not cover more than seven hundred (700) square feet of land surface and must not exceed fifteen (15) feet in height.
  - 3. A guest cottage or 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.
  - 4. The building footprint for an accessory structure containing a guest quarters is limited by impervious surface limits according to

Section 5.5.2 and the guest quarters shall not exceed 700 square feet.

5. An Accessory Structure with a Guest Quarters shall not exceed 25 feet in building height.
- D. Lots created after the effective date of this ordinance and intended as controlled accesses to public waters or as recreation areas for use by owners of non-riparian lots within subdivisions are permissible and must meet or exceed the following standards:
1. They must meet the width and size requirements for residential lots and be suitable for the intended uses of controlled access lots.
  2. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

**Controlled Access Lot Frontage Requirements**

Ratio of Lake Size to Shore Length (acres/mile)	Required Increase in Frontage (percent)
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

3. They may be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot.
4. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict

activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations or the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage building, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf—on conditions.

## 5.2 Placement, Design, and Height of Structures

5.2.1 Placement of structures on lots. When more than one (1) setback applies to a site, structures and facilities must be located to meet all setbacks. Structures shall be located as follows. In determining the altered Setback, the average Setback of the two (2) adjoining Structures shall be used in determining the required Setback.

### A. Structure and On-site Sewage System Setbacks (in feet) from OHWL\*

<u>Classes of Public Waters</u>	<u>Setbacks*</u>		<u>Sewage Treatment System</u>
	<u>Structures- Unsewered</u>	<u>Structures- Sewered</u>	
<b>Lakes</b>			
Natural Environment	150	150	150
Recreational Development	100	75	75
General Development	75	50	100
<b>Rivers</b>			
Remote	200	200	150
Forested and Transition	150	150	100
Tributary	100	50	75
Tributary- Natural Environment (Trout Streams)	150	100	150

\* One (1) water oriented Accessory Structure designed in accordance with Section 5.2.2; B; 2) of this ordinance.

B. Additional Structure Setbacks. The following additional Structure Setbacks apply, regardless of the classification of the waterbody:

Setback From	Setback (in feet)
1. Top of bluff	30
2. Unplatted cemetery	50
3. Right-of-way line federal, state, or county highway	20
4. Right-of-way line of a town road, public street, road, or a private road easement	20
5. Side yard (measured from the lot line to the building side wall)	10 (Measured to eaves)

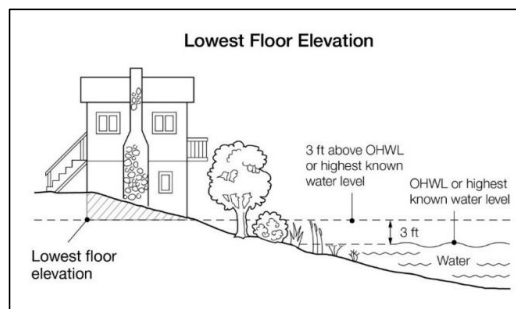
- C. Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- D. Uses Without Water Oriented Needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal OHWL setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
- E. Temporary Vehicles/Buildings. Hereafter no person shall erect, alter the outside dimensions, or move any building or *part* thereof without first securing a building site permit therefore. Licensed recreational camping vehicles may be located in shoreland areas without a building site permit, provided setback requirements of Section 5.2.1 are met. All vehicles shall be connected to an approved sanitary sewer or grey water disposal system when running water is available on or to the site. Licensed fish houses may be temporarily located in shoreland areas without a building site permit, provided setback requirements of Section 5.2.1 are met.
- F. Recreational camping vehicles shall also be limited to two (2) per Lot and will be considered permanent and shall be subject to all permits, setbacks, area, and sanitary sewer system requirements of this ordinance in either of the following cases:
  - 1) when the development of a structural addition to the recreational camping vehicle occurs, or when an accessory structure or storage building is completed on the site; or
  - 2) the recreational camping vehicle is unlicensed.

5.2.2 Design Criteria for Structures



A. High Water Elevations. Structures must be placed in accordance with any flood plain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

- 1) For lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level, or three (3) feet above the OHWL, whichever is higher.
- 2) For rivers and streams, by placing the lowest floor at least three (3) feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three (3) feet above the OHWL, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one (1) approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.
- 3) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the Structure is built to withstand ice action and wind driven waves and debris.
- 4) Structures not intended for human habitation (including attached garages or carports) shall be placed so that the lowest floor is at an



elevation not less than the highest known water level elevation.

- B. Water Oriented Accessory Structures. Each Lot may have one (1) water oriented Accessory Structure not meeting the normal Structure Setback in Section 5.2.1 of this ordinance if this water oriented accessory structure complies with the following provisions:
- 1) The Structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than 100 square feet. Detached decks must not exceed six (6) feet above grade at any point.
  - 2) The Setback of the Structure or facility from the OHWL must be at least outside the impact zone.t
  - 3) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.
  - 4) The roof may be used as a deck with safety rails not exceeding four (4) feet in height but must not be enclosed or used as a storage area.
  - 5) The structure or facility must not be designed or used for human habitation and must not contain sewage treatment facilities.
- C. Patios are allowed behind the structure setback without a permit provided that all setbacks are met, and the property does not exceed the maximum allowable Impervious Surface standards. Patios within the Structure Setback require a permit and shall comply with the following standards:
- 1) Not be located in Shore Impact Zone except as Water-oriented Accessory Structure according to Article 5.2.2B;
  - 2) Be free standing;
  - 3) Have no railings;
  - 4) Be a maximum of 250 square feet in size. Up to 400 square feet in size is allowed with an approved and implemented Stormwater Management Plan according to Article 5.5 of this ordinance;
  - 5) Not be more than one foot below or above natural ground level;
  - 6) Construction complies with all provisions of Articles 5.3.2 and 5.5 of this ordinance

- 7) The maximum Impervious Surface limits for the Lot shall not be exceeded.
- D. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down Bluffs and Steep Slopes to shore areas. Stairways and lifts must meet the following design requirements.
- 1) Stairways and lifts must not exceed four (4) feet in width on residential Lots. Wider stairways up to ten (10) feet in width may be used for commercial properties, public open space recreational properties, and Planned Unit Developments.
  - 2) Landings for stairways and lifts on residential Lots must not exceed thirty-two (32) square feet in area, and only one landing is permitted per stairway.. Landings larger than thirty-two (32) square feet may be used for commercial properties, public open space recreational properties and Planned Unit Developments.
  - 3) Canopies or roofs are not allowed on stairways, lifts or landings.
  - 4) Stairways, lifts and landings may be either constructed above the ground on posts or pilings and may not be placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
  - 5) Stairways, lifts and landings must be located in the most visually inconspicuous portions of Lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
  - 6) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub items (1) to (5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
- E. Significant Historic Sites. No Structure may be placed on a Significant Historic Site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- F. Steep Slopes. The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from Public Waters before

issuing a permit for construction of Sewage Treatment Systems, roads, Driveways, Structures, or other improvements on Steep Slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of Structures, vehicles, and other facilities as viewed from the surface of Public Waters, assuming summer, leaf-on vegetation

- 5.2.3 Height of Structures. All Structures in residential districts, except churches and non-residential agricultural Structures, must not exceed twenty-five (25) feet in height.
- 5.2.4 The Windemere Township Board Nuisance Ordinance shall be in full fore and effect in all shoreland zones.

### **5.3 Shoreland Alterations**

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

#### **5.3.1 Vegetation Alterations**

- A. Vegetation alteration necessary for the construction of permitted structures and Sanitary sewage treatment systems and the construction of roads and parking areas regulated by Section 5.4 of this ordinance are exempt from the vegetation alteration standards that follow.
- B. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Sections 5.6.2 and 5.6.3, respectively, is allowed subject to the following standards:
  - 1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
  - 2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, lifts, picnic areas, access paths, livestock watering areas,

beach and watercraft access areas and permitted water oriented accessory structures or facilities, provided that:

- a) No trees greater than 3 inches in diameter measured at six inches above the ground can be removed without first obtaining a permit. Up to 33% of trees between 1 and 3 inches in diameter measured at 6 inches above the ground and up to 50% of trees 1 inch or less in diameter measured at 6 inches above the ground can be removed one time without a permit.
- b) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.
- c) Along river, existing shading of water surfaces is preserved.
- d) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards, as determined by the Windemere Township Coordinator.

5.3.2 Use of fertilizer and pesticides in the shoreland management district must be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earth, vegetation, or both.

5.3.3 Topographic Alterations/Grading and Filling

- A. Grading and filling and excavations necessary for the construction of structures and sewage treatment systems under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures and sewage treatment systems.
- B. Roads, driveways, and parking areas are regulated by Section 5.4 of this ordinance.
- C. Notwithstanding Items A and B above, a grading and filling permit will be required for the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones or more than fifty (50) cubic yards of material on property under the jurisdiction of this ordinance. Grading and filling of less than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones shall not require a permit; however, the property owner shall be required to provide a

grading and filling plan and submit it for approval to the Township and follow the requirements of Section 5.3.3D.

- D. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances, and subdivision approvals:
- 1) Grading, filling in any type 1,2,3,4,5,6,7, or 8 Wetland must be approved in writing by the Pine County Soil and Water Conservation District, Minnesota Department of Natural Resources, or Army Corps of Engineers, with a copy being provided to the Township prior to the start of work. Before authorizing any grading or filling activity in any type 1,2,3,4,5,6,7, or 8 wetland the approving agency must consider how extensively the proposed activity would affect the following functional qualities of the wetland:
    - a) sediment and pollutant trapping and retention;
    - b) storage of surface run-off to prevent or reduce flood damage;
    - c) fish and wildlife habitat;
    - d) recreational use;
    - e) shoreline or bank stabilization; and
    - f) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
  - 2) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
  - 3) Mulches, erosion blankets, or similar materials must be used, where necessary, for temporary bare soil coverage and a permanent vegetation cover must be established as soon as possible.
  - 4) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
  - 5) All grading and filling plans must be reviewed and approved in writing by the Soil and Water Conservation District to ensure adequate seeding, mulching and other erosion control measures are

being proposed, with a copy provided to the Township prior to commencing work.

- 6) Fill or excavated material must not be placed in a manner that creates an unstable slope, and erosion controls must be used.
- 7) Plans to place fill or excavated material on steep slopes must be reviewed and approved by qualified professionals for continued slope stability and must not create finished slopes of thirty percent (30%) or greater.
- 8) Fill or excavated material must not be placed in bluff impact zones.
- 9) Any alterations below the OHWL of public waters must first be authorized by the Commissioner under Minnesota Statutes, Section 103G.245.
- 10) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties, including directing water onto those properties in quantities greater than what occurred prior to the alterations.
- 11) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if:
  - a) the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, or steeper than 33.5% grade.
  - b) the landward extent of the riprap is within ten (10) feet of the OHWL.
  - c) the height of the riprap above the OHWL does not exceed three (3) feet.
  - d) Installation of riprap is allowed only where there is a demonstrated need to stop existing erosion or to restore an eroded shoreline, as determined by the Township, the County, or the Pine Soil and Water Conservation District.
  - e) Only natural rock (cannot average less than 6 inches or more than 30 inches in diameter) may be used that is free of debris that may cause pollution or siltation. The rock must be local fieldstone or similar in appearance and type so as to appear naturally occurring to the area. Concrete is not allowed.

- f) A filter of non-woven geotextile of at least 8 ounces must be placed underneath the rock.
  - g) Construction of retaining walls taller than 4' within the Shore Impact Zone is prohibited unless designed by a professional engineer.
  - h) The riprapped area must be no more than 200 linear feet of shoreline along lakes and Wetlands or, along shorelines of streams, must be less than five times the average width of the affected watercourse.
- E. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.
- F. Construction and maintenance of non-naturally occurring beach sand blankets is prohibited within the shore impact zone. Contained sand boxes, not exceeding 32 square feet are allowed, without permit, in the shore impact zone.

#### **5.4 Placement and Design of Roads, Driveways, and Parking Areas**

- 5.4.1 Construction of roads, driveways, and parking areas shall require a permit from the Township when not included with the permit for a structure or grade and fill.
- 5.4.2 Roads, driveways, and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
- 5.4.3 Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas and must be designed to minimize adverse impacts.
- 5.4.4 Public and private watercraft access ramps, approach roads, and access related parking areas may be placed within shore impact zones provided the vegetative



screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 5.3.3 of this ordinance must be met.

## **5.5 Stormwater Management**

The following general and specific standards shall apply:

### **5.5.1 General Standards**

- A. When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater run-off before discharge to public waters.
- B. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, run-off velocities, erosion potential, and reduce and delay run-off volumes. Disturbed areas must be stabilized and protected as soon as possible, and facilities or methods used to retain sediment on the site.
- C. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater run-off using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and non-man made materials and facilities.

### **5.5.2 Specific Standards**

- A. Impervious surface coverage of lots must not exceed twenty-five percent (25%) of the lot area.
- B. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- C. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

**5.6 Special Provisions for Commercial, Industrial, Public/Semipublic, Agricultural, Forestry, Extractive Uses and Mining of Metallic Minerals and Peat**

5.6.1 Standards for Surface Water oriented Commercial, Commercial, Industrial, Public and Semipublic Uses Zoned as such.

A. Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

- 1) In addition to meeting impervious surface coverage limits, setbacks, and other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.
- 2) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.
- 3) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards which apply only within the shore impact zone:
  - a) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff.
  - b) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten (10) feet above the ground, and must not exceed thirty-two (32) square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters, and must meet the requirements of the Township's Dark Skies requirements.
  - c) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential

safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

- B. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal OHWL setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

#### 5.6.2 Agriculture Use Standards

- A. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and Bluff Impact Zones are maintained in permanent vegetation or operated under on approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the OHWL.

- B. Agricultural feedlots must meet the following standards:

- 1) New feedlots must not be located on the Shoreland of watercourses or in bluff impact zones and must meet a minimum setback of three hundred (300) feet from the OHWL of all public waters basins.
- 2) Modifications or expansions to existing feedlots that are located within three hundred (300) feet of the Ordinary High Water Level or within a Bluff Impact Zone are allowed if they do not further encroach into the existing Ordinary High Water Level Setback or encroach on Bluff Impact Zones.

- 5.6.3 Forest Management Standards. The activities associated with all forest management practices on forest land must be conducted consistent with the provisions of the water quality in forest management "Best Management Practices in Minnesota."

#### 5.6.4 Extractive Use Standards

- A. Site development and restoration plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible

pollutant discharges and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

B. Setbacks for processing machinery. Processing machinery must be located consistent with setback standards for structures from OHWL of public waters and from bluffs.

5.6.5 Mining of Metallic Minerals and Peat. Mining of metallic minerals and peat, as defined in Minnesota Statutes, Sections 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51 are satisfied.

5.6.6 Home Occupation Performance Standards. Home occupations shall require a permit from the township, but shall be subject to the following standards.

A. The home-based business must be co-located on the property with a principal residence and the home-based business must be owned and operated by a tenant or owner of the residence. No more than two (2) home-based businesses are permitted within any residence.

B. A separate property description may not be created for the home-based business. The principal residence and the home-based business must be co-located on the same parcel of land. In the event that more than one (1) parcel exists, a lot combination agreement or other legal mechanism must be executed to effectively combine the residential parcel and business parcel as one parcel as long as the home-based business exists.

C. A home-based business may be located wholly or partially within a structure accessory to the principal residence and may be partially located within the principal residence. Accessory structures associated with the home-based business may not exceed 6000 square feet in area. Except for greenhouses, no more than two (2) accessory buildings may be associated with any home-based business.

D. Outside storage of materials or equipment of the home-based business shall not occur unless the storage area is screened from adjacent properties, public right-of-ways, and shoreland areas. Screening shall consist of decorative fencing, berming, solid vegetative barriers, or a combination of fencing, berming, and vegetation.

- E. 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.
- F. No activity shall be permitted that will create a public hazard or public nuisance or otherwise be incompatible with adjacent residential uses.
- G. Home-based businesses requiring plumbing shall be consistent with the provisions of Pine County Subsurface Sewage Treatment Systems Ordinance.
- H. Security lighting shall be directed away from adjacent roadways and properties and be consistent with the dark night skies requirements.
- I. Home-based businesses shall be allowed a single advertising sign not to exceed 8 square feet in area or be located closer than ten (10) feet from any property line or roadway easement for each permitted business.

5.6.7 Short-Term Rental Performance Standards

Short-term rentals may only be operated under a valid permit issued by the County, and shall be subject to the following standards:

- A. An application shall be submitted on a form furnished by the County, providing adequate information for the County to ensure that all ordinance requirements are met.
- B. Permits shall expire three (3) years after issuance or upon sale or transfer of the property. Permits will be eligible for renewal with a new application demonstrating compliance with all requirements.
- C. Guests must abide quiet hours from 9pm-7am Sunday-Thursday and 11pm-7am Friday, Saturday, and holidays.
- D. The applicant shall demonstrate compliance with Minnesota Department of Health licensing requirements prior to project commencement.
- E. The property must maintain a valid certificate of septic compliance performed by a licensed septic inspector throughout its time of operation.
- F. Rental units on chassis (tiny house, RV, etc), must provide direct connection to a septic system with valid compliance certificate.

- G. Camping outside of the permitted dwelling unit in a tent, camper, or similar device shall not be permitted by guests.
- H. Occupancy will be limited to septic system capacity and the number of overnight guests cannot exceed two persons per bedroom.
- I. Applicant shall not advertise the property as available to more guests than the occupancy limit identified on the permit.
- J. On-street parking is prohibited.
- K. Guests shall be limited to one motorized boat per rental party on the premises.
- L. Launching of motorized boats from the premises shall be prohibited where the public waterbody provides a public launch.
- M. Aquatic invasive species prevention guidelines must be posted in the rental unit for watercraft use.
- N. Properties are limited to one dwelling unit, except that additional units may be provided consistent with duplex, triplex, and quad standards in Section 5.1. Non-primary dwelling units may not exceed 700 square feet. Properties proposing five or more short-term rental units shall be considered a resort, and subject to all applicable standards and permits.
- O. The owner of a short-term rental operation shall designate and provide information to the County and each renter for a point of contact that would be available 24-hours a day, seven days a week to respond to issues that may arise regarding the short-term rental.
- P. All guest pets shall be leashed or otherwise contained.

## **5.7 Water Supply and Sewage Treatment**

- 5.7.1 Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

5.7.2 Sewage Treatment. Any premises used for human occupancy must be provided with an adequate system of sewage treatment and/or grey water disposal, as follows:

- A. Publicly owned Sewer Systems must be used where available.
- B. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's (MPCA) standards for individual sewage Treatment Systems contained in the document titled "Individual Sewage Treatment System Standards, Chapter 7080," a copy of which is hereby adopted by reference and declared to be a part of this ordinance. In addition to the Chapter 7080 regulations, the County will also require the following:
  - 1) After May 1, 1994, individual Sewage Treatment System evaluators, designers, inspectors, pumpers and installers shall have provisional Minnesota Pollution Control Agency certification. After May 1, 1996, full certification shall be required.
  - 2) All privies must provide a sealed tank as defined in Chapter 7080 and no open pits will be allowed. Any privy not connected to the dwelling shall not require installation or design by a certified installer, designer, or evaluator. In remote areas not accessible by pumper trucks, the owner may request approval for land application of wastewater provided the application site is outside the Shoreland area and provided it meets township regulations.
- C. On-site Sewage Treatment Systems must be set back from the Ordinary High Water Level in accordance with the Setbacks contained in Section 5.2.1 of this ordinance.
- D. All proposed sites for individual Sewage Treatment Systems shall be evaluated in accordance with the criteria in subitems (1) - (4). It shall be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

Evaluation criteria:

- 1) Depth to the highest known groundwater table or seasonally saturated soil condition, or bedrock;
- 2) Soil conditions, properties, and permeability;
- 3) Slope;

- 4) The existence of low lands, local surface depressions, and rock outcrops.
- E. Non-conforming Sewage Treatment Systems shall be regulated and upgraded in accordance with Section 6.3 of this ordinance.

## **Section 6.0 Non-Conformities**

All legally established non-conformities as of the date of this ordinance may continue, but they will be managed according to the applicable state statutes and other regulations of the Township for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in Shoreland areas:

### **6.1 Construction on Non-conforming Lots of Record**

- 6.1.1 Lots of record in the office of the County Recorder as of October 1, 1973 that do not meet the requirements of Section 5.1 of this ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district; the 1-Lot has been in separate ownership from abutting lands at all times since it became substandard; was created in compliance with official controls in effect at the time; impervious surface lot coverage does not exceed 25 percent; and sewage treatment and setback requirements of this ordinance are met.
- 6.1.2 If a variance from setback requirements must be obtained before any use, sewage treatment systems, or building permit is issued for a lot, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
- 6.1.3 If, in a group of two or more contiguous lots under common ownership, any individual lot does not meet the requirements 66% of the dimensional standard lot width and size described in Section 5.1 of this ordinance, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one (1) or more contiguous lots, so they equal one (1) or more parcels of land, each meeting the requirements of Section 5.1 of this ordinance as much as possible.



- 6.1.6 Notwithstanding paragraph Section 6.1.5, contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of Minnesota Statute section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.
- 6.1.7 A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.
- 6.1.8 In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

## **6.2 Repair, Restoration, Maintenance, or Improvement to Certain Non-conforming Structures**

- 6.2.1 For homestead, non-homestead residential real estate and seasonal residential real estate occupied for recreational purposes except as otherwise provided by law, a nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of this ordinance, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the County assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy. If such building permit is applied for, the board may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming Structure in the Shoreland district with less than 50 percent of the required Setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the County assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

6.2.2 Deck additions may be allowed with a variance to a structure not meeting the required setback from the OHWL if all of the following criteria and standards are met:

- A. The structure existed on the date the structure setbacks were established.
- B. A Township Coordinator evaluation of the property and structure reveals no alternative location for a deck meeting or exceeding the existing OHWL setback of the structure.
- C. The deck does not encroach into any shore impact or bluff impact zones.
- D. The deck is constructed primarily of wood and is not roofed or screened.

### **6.3 Non-conforming Sewage Treatment Systems**

6.3.1 All non-conforming properties will be subject to the regulations described in the Pine County Subsurface Sewage Treatment Systems Ordinance as well as Minnesota Chapter 7080.

### **6.4 Surface Water-Oriented Commercial Use Non-conformities**

Consistent with the provisions of Minnesota Statute 103F.227, existing non-conforming surface water-oriented commercial uses may rebuild or replace buildings in their entirety into one or more buildings as a conditional use if all of the following standards are met:

- 6.4.1 Deficiencies involving water supply and sewage treatment, setbacks, and impervious coverage, must be addressed by the applicant as part of the improvements and will be conditions of the conditional use permit.
- 6.4.2 Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the improvements. These must include, where applicable, the following:
  - A. removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones
  - B. remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water
  - C. existing dwelling units in resorts or campgrounds are located in shore or bluff impact zones, conditions are attached that preclude exterior expansions in any dimension or substantial alterations to those structures.

The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

- 6.4.3 Existing dwelling unit or dwelling site densities in resorts or campgrounds shall be allowed to continue after the improvements.

## **Section 7.0 Subdivision/Platting Provisions**

### **7.1 Land Suitability.**

Each lot created through subdivision, including PUD's authorized under Section 8.0 of this ordinance, must be suitable in its natural state for the proposed use with minimal alteration. The land suitability analysis shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities. Additional information may be required by the County to complete the land suitability analysis in evaluating the impacts on near shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed Subdivision or of the County.

### **7.2 Consistency With Other Controls.**

Subdivisions must conform to all official controls of the Township and the County, including the Pine County Subdivision Ordinance and the Windemere Township Subdivision and Platting Ordinance, whichever is more restrictive. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 5.2 and 5.7 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 5.1, including at least a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two (2) standard soil treatment systems. Lots that would require use of holding tanks will not be approved.

### **7.3 Information Requirements.**

Sufficient information must be submitted by the applicant for the Township to make a determination of land suitability. The information shall include at least the following:

- A. Topographic contours at ten (10) foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics.
- B. The surface water features required in Minnesota Statutes, Section 505.02, Subdivision 1, to be shown on plats, obtained from United States Geological Survey Quadrangle topographic maps or more accurate sources.
- C. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from field investigations such as soil borings, percolation tests, or other methods.
- D. Information regarding adequacy of domestic water supply, extent of anticipated vegetation and topographic alterations; near shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater run-off and erosion, both during and after construction activities.
- E. Location of the 100-year flood plain areas and floodway districts from existing adopted maps or data.
- F. A line or contour representing the OWHL, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- G. A road design plan as well as all other requirements of the Pine County Subdivision and Platting Ordinance or Windemere Township Subdivision and Platting Ordinance, whichever is more restrictive.

**7.4 Dedications.**

When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

**7.5 Platting.**

All subdivisions that create four (4) or more Lots or parcels that are 2 1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for Lots created after these official controls were enacted unless the Lot was created in compliance with the Pine County Subdivision Ordinance.

**7.6 Controlled Access or Recreational Lots.**

Lots intended as controlled accesses to Public Waters or for recreational use areas for use by non-riparian Lots within a Subdivision must meet or exceed the sizing criteria in Section 5.1.4, D of this ordinance.

## **Section 8.0 Planned Unit Developments**

### **8.1 Planned Unit Developments to be Managed according to DNR Shoreland Requirements.**

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## **Section 9.0 Effective Date**

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_ 2024, by the Windemere Township Board of Supervisors.

\_\_\_\_\_  
Alan Overland, Chair  
Windemere Township Board of Supervisors

ATTEST:

\_\_\_\_\_  
Cindy Woltjer  
Windemere Township Clerk

Drafted by:  
Windemere Township Planning  
Commission