

**WINDEMERE TOWNSHIP
ZONING ORDINANCE**

WINDEMERE TOWNSHIP
PINE COUNTY, MINNESOTA

Ordinance No. _____

Repealed and Replaced _____, 2026

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**WINDEMERE TOWNSHIP
ZONING ORDINANCE**

The Board of Supervisors of Windemere Township ordains:

**ARTICLE I
GENERAL PROVISIONS**

1.1 **Authority and Purpose.** The Town Board of Windemere Township (the “Town”) hereby adopts this ordinance, which shall be known as the “Windemere Township Zoning Ordinance” (this “Ordinance”), pursuant to its authority under Minnesota Statutes, sections 462.351 to 462.364, and such other law as may apply. The Town has not adopted and does not administer or enforce the Minnesota Building Code.

The purpose of this Ordinance is:

- (1) to protect the public health, safety, and general welfare,
- (2) to protect property values and preserve the quiet enjoyment of property,
- (3) to place all of the land within the Town within a zoning district,
- (4) to allow and regulate certain uses of land and structures within the Town while prohibiting other uses and structures,
- (5) to allow and encourage the most appropriate use of land,
- (6) conserving natural resources, wetlands, soils, bodies of water and groundwater,
- (7) to allow and regulate residential, commercial and industrial development in the Town in an environmentally sustainable manner and in manner that protects the culture and history of the Town and
- (8) to prescribe penalties for violating this Ordinance.

1.2 **Jurisdiction.** This Ordinance shall apply to all areas within Windemere Township, except areas within the incorporated limits of any city, however organized, or as may otherwise be provided by law.

1.3 **County Regulations.** Pine County (the “County”) has adopted ordinances impacting the development and use of property in the Town, including floodplain management and regulations related to subsurface sewage treatment systems (“SSTS”). This Ordinance does not adopt, nor shall it be construed as adopting, any portion of those regulations and the Town is not assuming any responsibility for the administration or enforcement of those regulations. The Town shall only be responsible for administering and enforcing the provisions of this Ordinance, and the Town’s

Shoreland Management Ordinance, and anyone proposing to engage in or establish a regulated use or activity shall be required to obtain the required permit from the Town. The issuance of a permit by the Town does not constitute, or take the place of, a permit needed from the County, and the issuance of a permit by the County does not constitute, or take the place of, a permit needed from the Town. Anyone proposing to initiate, convert, or expand a use of land, or to construct or expand a building or structure, is strongly encouraged to contact both the County and the Town to identify the applicable regulations, restrictions, and permit requirements.

1.3.1 **Shoreland.** Those portions of the Town designated as shoreland shall be regulated by the Town pursuant to this Ordinance .

1.3.2 **SSTS.** The County administers and enforces the Minnesota Rules, Chapters 7080-7083 regulations on SSTS in the Town.

1.3.3 **Subdivisions.** Those proposing to subdivide property within the Town shall be subject to the Town's subdivision regulations, the subdivision regulations contained in this Ordinance, and the regulations applicable in the particular zoning district.

1.4 **Minimum Standards.** In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and welfare. Where the standards, regulations or requirements imposed by any provision of this Ordinance are either more or less restrictive than comparable standards, regulations or requirements imposed by any other ordinance, rule, or regulation of the Town, County, State, or Federal government, the statute, ordinance, rule, or regulation which imposes the more restrictive condition, standard, regulation, or requirement shall prevail. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the Town, and shall not be deemed a limitation or repeal of any other powers granted by State statute.

1.5 **Consistency.** Should any provision in this Ordinance conflict with, or be found inconsistent with Minnesota Statutes, Chapter 462, the provisions of the applicable section of Minnesota Statutes, Chapter 462 shall apply, and supersede the inconsistent or conflicting terms of this Ordinance. It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

1.6 **Relation to the Town's Comprehensive Plan.** It is the policy of the Town that the enforcement, amendment, and administration of this Ordinance be accomplished consistent with the recommendations contained in the Town comprehensive plan, as developed and amended from

time to time by the Planning Commission and Town Board. The Town Board recognizes the Town Comprehensive Plan as the official policy for the regulation of land use and development in accordance with the policies and purpose herein set forth.

1.7 **Applications.** All applications must be on forms approved by the Town Board. Any requests not submitted on an approved Town form shall not be considered an application for the purposes of this Ordinance or Minnesota Statutes, section 15.99 and shall be rejected. An application shall be immediately rejected if it is not accompanied by the required application fee. If an escrow is required, the applicant shall submit the required amount for escrow with the Town within five days of the submission of the application or the application shall be deemed incomplete and will not be processed.

1.8 **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. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgment.

1.9 **Compliance.** No structure shall be erected, placed, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose or in any manner, which is not in conformity with this Ordinance. Construction of all structures and the established and operation of all uses must be in accordance with the application, plans, permit, and any applicable variances. Zoning permits and conditional use permits issued on the basis of approved plans and applications authorize only the use and construction set forth in such approved plans and applications and no other use or construction. Any use or construction not in conformance with that authorized shall be deemed a violation of this Ordinance unless a new or amended permit or variance is first obtained as provided in this Ordinance.

1.10 **Prior Zoning Regulations.** This Ordinance supersedes and replaces all previous land use, zoning, and subdivision ordinances adopted for the Town and all such previous land use and zoning ordinances are hereby repealed. The repeal of the Town's previous zoning and subdivision ordinances does not itself affect the status of any use, structure, or lot that was not in conformance with the earlier ordinances.

1.11 **Unpaid Taxes or Charges.** Any application for a zoning request related to property in which there are delinquent property taxes, special assessments, penalties, interest, or past due public utility fees shall not be considered complete and shall not be processed until the owner certifies to the Town, with adequate supporting documentation, that all such delinquent or past due amounts, interest,

and penalties have been paid in full. Furthermore, any person that submits an application for a zoning request that owes the Town for past zoning related fees or costs, or if the application relates to property on which there are zoning related fees or costs owed to the Town, the application shall be deemed incomplete and shall not be accepted or processed until all such delinquent or past due amounts have been paid in full to the Town. The Town will not process or issue a permit, variance or any other zoning request to any of the above-described properties until all past due amounts, penalties, and interest have been paid in full. The Town may collect any zoning related fees, charges, or costs owed to it by certifying the amount to the County Auditor as a service charge pursuant to Minnesota Statutes, section 366.012 for collection together with the property taxes levied against any real property the person or entity owing the amount owns in the State. The Town will provide the property owner written notice of its intent to certify the amount on or before September 15. The amounts so certified to the be subject to the same penalties, interest, and other conditions provided for the collection of property taxes.

ARTICLE II DEFINITIONS AND RULES OF INTERPRETATION

2.1 **Definitions.** For the purposes of this Ordinance, the following terms shall have the meaning given them in this section. Any term not defined herein shall have the meaning given it in the most applicable Minnesota Statute or Rule, and if not defined therein, it shall have the meaning given it in common usage in the context in which it is used herein.

- (1) **Accessory Building or Accessory Structure.** “Accessory Building” or “Accessory Structure” 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.
- (2) **Accessory Use.** “Accessory Use” means a use naturally and normally incidental to, subordinate to, and auxiliary to the principal use of the property.
- (3) **Adjoin or Adjoining.** “Adjoin” or “Adjoining” means touching or bordering at a point or line; located next to another, bordering or contiguous.
- (4) **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 Statutes, section 116.0711 allows the resumption of existing feedlots.

(5) **Alteration.** "Alteration" means any change in a structure affecting its supporting members, including, but not limited to, bearing walls or partitions, beams, girders, roofs or exterior walls.

(6) **Antenna.** "Antenna" means any structure or device used for the purpose of collecting or transmitting electrical magnetic waves, including but not limited to directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whip antennas.

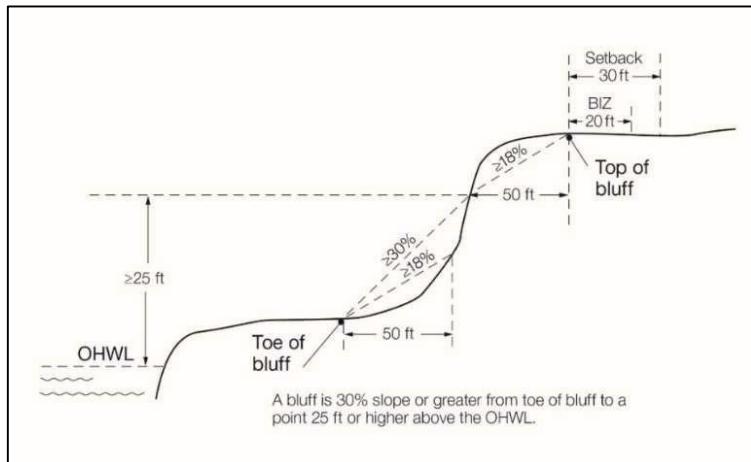
(7) **Animal Unit.** "Animal Unit" means a unit of measure used to compare the difference in the production of animal waste that, as a standard, uses the amount of waste produced on a regular basis, by a slaughter steer or heifer. For animals not listed in the following chart, the number of animal units shall be defined as the average weight of the animal divided by 1,000 pounds. For purposes of these regulations, the following equivalents apply:

(8) **Application Fee.** "Application Fee" means the fee an applicant for a zoning request must submit to the Town together with a zoning application. The amount of the required application fee is established by the Town Board as part of the Town's fee schedule.

ANIMAL UNIT EQUIVALENT CHART	
ANIMALS	EQUIVALENT
Dairy Cattle (milked or dry): One mature over 1,000 lbs One mature under 1,000 lbs One heifer One calf	1.4 animal units 1.0 animal units 0.7 animal units 0.2 animal units
Beef Cattle: One slaughter steer or stock cow One feeder cattle or heifer One cow and calf pair One calf	1.0 animal units 0.7 animal units 1.2 animal units 0.2 animal units
Swine: One over 300 lbs One between 55 lbs and 300 lbs One under 55 lbs	0.4 animal units 0.3 animal units 0.05 animal units
One horse	1.0 animal units
One sheep or lamb	0.1 animal units
Chickens: Liquid Manure Facility: One laying hen or broiler Dry manure facility: One over 5 lbs One under 5 lbs	0.033 animal units 0.005 animal units 0.003 animal units
Turkeys: 6 One over 5 lbs One under 5 lbs	0.018 animal units 0.005
One duck	0.01 animal units

- (9) **Banner.** "Banner" means a sign made of fabric or any non-rigid material with no enclosing framework temporarily mounted to a building, structure, or the ground at two or more edges.
- (10) **Basement.** "Basement" means a portion of a building located partially underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground. Basements, except portions used for garage, shall be used in arriving at total gross floor area.
- (11) **Billboard.** "Billboard" means an off-premises sign on which lettered, figured or pictorial matter is displayed that has a display surface area of 250 square feet or more.
- (12) **Block.** "Block" means an area of land within a Subdivision that is entirely bounded by streets, or by streets and exterior boundaries or boundaries of the Subdivision, or a combination of the above with a natural waterway.
- (13) **Bluff.** "Bluff" means a topographic feature such as a hill, cliff, or embankment having the following characteristics:
 - (A) Part or all of the feature is located in a shoreland area.
 - (B) The slope rises at least twenty-five (25) feet above the toe of the bluff.
 - (C) The grade of the slope from the tow of the bluff to a point twenty-five (25) feet or more above the tow of the bluff averages thirty percent (30%) or greater; except that an area with an average slope of less than eighteen percent (18%) over a distance of a least fifty feet (50') shall not be considered part of the bluff.

(D) The slope must drain toward the waterbody.



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

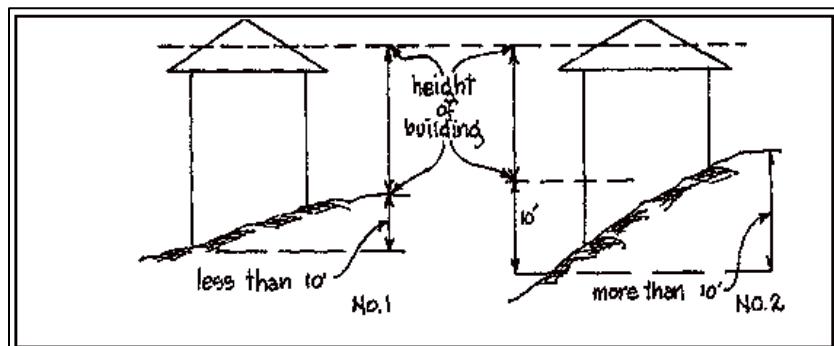
(15) **Board of Appeals and Adjustments.** “Board of Appeals and Adjustments” means the Windemere Township Board of Appeals and Adjustment established by this Ordinance and authorized to carry out the duties prescribed by law and this Ordinance and to otherwise carry out the powers and duties provided it in Minnesota Statutes, sections 462.357, subdivision 6 and 462.359, subdivision 4. The Town Board serves as the Board of Appeals and Adjustments.

(16) **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, buildings 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.

(17) **Building.** “Building” means any structure providing shelter for persons, animals or chattel of any kind which is built, constructed, or erected, the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground, including porches and sunrooms; or any piece of work artificially built up and/or composed of parts joined together in some definite manner. When separated by

bearing walls without openings each portion so separated shall be considered as a separate building. A building shall be the principal building on the lot for purposes of this Ordinance if it is the building or structure in which the main or principal use of the lot is situated.

(18) **Building Height.** "Building Height" 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.



(19) **Building Setback Line.** "Building Setback Line" means a line within a lot or other parcel of land so designated on the plat, parallel to the street right-of-way, or the ordinary high water level, if applicable, at its closest point to any story level of a building and representing the minimum distance which all or part of the building is set back from said right-of-way line, or ordinary high water level.

(20) **Cellar.** "Cellar" means that portion of a building having more than half of the clear floor to ceiling height below the average grade of the adjacent ground. Cellars shall not be included in arriving at total gross floor area.

(21) **Commercial Planned Unit Developments in the Shoreland Overlay Zone.** "Commercial Planned Unit Developments" are typically uses 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.

(22) **Commercial Use.** "Commercial Use" means the principal use of land or buildings for the sale, lease rental purchase, or administration of products goods and services.

(23) **Commissioner.** "Commissioner" means the Commissioner of the Department of Natural Resources.

- (24) **Conditional Use.** "Conditional Use" means a land use as defined by this Ordinance that would not be appropriate generally but may be allowed with appropriate restrictions upon a finding that certain conditions as detailed in the Ordinance exist and the use is compatible with the existing neighborhood.
- (25) **Conditional Use Permit.** "Conditional Use Permit" means a permit issued in accordance with the provisions of this Ordinance to allow a particular use on a lot within a zoning district that allows the use as a conditional use. The permit runs with the land and its use is allowed to continue provided the conditions imposed on the permit are not violated.
- (26) **Contiguous.** "Contiguous" means, when referring to something that is contiguous to a lot, the item referred to abuts the boundary of the lot in question. If referring to one or more contiguous lots, those lots that have lot boundaries that touch each other shall be contiguous, except that lots that have boundaries that only touch each other on the corners shall not be deemed contiguous, and lots that are separated by a public road, railroad, river or lake shall not be deemed contiguous. When referring to one or more items within a lot, contiguous shall mean that such items are in such close proximity to each other and are uninterrupted within that portion of the lot that they can be considered a similar area of the lot (e.g. a wooded area of a lot consisting of a stand of a number of trees in close proximity to each other would be considered a contiguous wooded area) or where the characteristics of a portion of the lot is considered continuous (e.g. an area of the lot that is covered with lawn would be deemed a contiguous area of lawn).
- (27) **Contour Map.** "Contour Map" means a topographic map showing the irregularities in the elevation of land surface through the use of lines connecting points of equal elevation. Contour interval is the vertical height difference between the connecting lines on a contour map.
- (28) **County.** "County" means Pine County, Minnesota.
- (29) **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
- (30) **Development.** "Development" means the act of building structures and installing site improvements.

- (31) **Development Agreement.** “Development Agreement” means a contract between the subdivider and the Town requiring that the subdivider furnish and construct necessary improvements at the subdivider’s expense and other conditions which may be set by the Town Board.
- (32) **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.
- (33) **Duplex.** “Duplex” means a building designed and/or used exclusively for residential purposes and containing two dwelling units separated by a common party wall or otherwise structurally attached. For the purposes of determining the number of dwellings on a property, a duplex shall be considered as two dwellings.
- (34) **Dwelling.** “Dwelling” means any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings either temporarily or permanently.
- (35) **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.
- (36) **Dwelling Unit.** “Dwelling Unit” means any building or portion thereof which is designed or used exclusively for residential purposes.
- (37) **Easement.** “Easement” means a grant by a property owner for the use of a strip of land by the public or any person for any specific purpose or purposes.
- (38) **Essential Services.** “Essential Services” means underground or overhead gas, electrical, steam, or water distribution systems; collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, hydrants, or other similar equipment and accessories in conjunction therewith; but not including buildings, transmission services, windmills, and solar panels. For the purpose of this Ordinance, the word “building” does not include “structure” for essential services.
- (39) **Event Venue.** “Event Venue” includes but is not limited to for-profit wedding venues, retreats, arts and entertainment venues and other such facilities.
- (40) **Excavation.** “Excavation” means the digging, removal, filling with, or storage of any naturally occurring rock, sand, gravel, clay, silt, soil, or other like mineral(s) being conducted within the Town.

- (41) **Extractive Use.** "Extractive Use" means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51, or successor statutes.
- (42) **Face of Sign.** "Face of Sign" means the area of a sign on which the copy is placed.
- (43) **Fence.** "Fence" means any partition, structure or wall, or gate erected as a dividing marker, barrier or enclosure and located along the boundary or within the required yard. All fences within residential districts are subject to zoning permit review and approval.
- (44) **Feedlot or Animal Feedlot.** "Feedlot" or "Animal Feedlot" means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this Ordinance, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered animal feedlots. For purposes of this Ordinance, pastures, petting zoos, horse stalls, riding arenas, open lots and mink farms shall not be considered to be animal feedlots. Animal feedlot shall include any manure storage structure.
- (45) **Final Plat.** "Final Plat" means the drawing or map of a Subdivision prepared for filing of record pursuant to Minnesota Statutes, Chapter 505, and containing all elements and requirements set forth in applicable requirements adopted pursuant to Minnesota Statutes Section 462.358 and Chapter 505.
- (46) **Floor Area.** "Floor Area" means the sum of the horizontal areas of the several floors of a building measured from the exterior walls including basements, all floors and attached accessory buildings.
- (47) **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.
- (48) **Freestanding Sign.** "Freestanding Sign" means a sign supported permanently upon the ground by poles or braces and not attached to any building.
- (49) **Gravel.** "Gravel" means non-metallic natural mineral aggregate including, but not limited to sand, silica sand, gravel, building stone, crushed rock, limestone, and granite.

- (50) **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.
- (51) **Height of Sign.** "Height of Sign" means the vertical distance measured from the highest point of the sign, excluding decorative embellishments, to the grade of the adjacent street or the surface grade beneath the sign, whichever is less.
- (52) **Home Occupation I.** "Home Occupation I" means a nonresidential use carried out on residential property which only employs persons residing within the home and does not require additional employees, separate employee or customer parking, in-person sale of products, exterior storage, does not utilize an accessory building, and does not generate a noticeable increase in traffic. Home occupations such as, but not limited to, architects, artists, clergymen, clothing alterations, domestic crafts making, and similar uses shall be classified as Home Occupation I occupations. The performance standards for Home Occupation I are set forth in Section 11.8 of this Ordinance.
- (53) **Home Occupation II.** "Home Occupation II" means nonresidential use carried out on residential property not falling within the definition of Home Occupation I and which has the potential for generating a noticeable increase in traffic, requires additional parking, involves employees not residing in the home, or utilizes an accessory building. Home occupations such as barber shops, beauty salons, clothing shops, and similar uses conducted within a dwelling or accessory structure shall be classified Home Occupation II occupations. The performance standards for Home Occupation II are set forth in Section 11.8 of this Ordinance.
- (54) **Identification Sign.** "Identification Sign" means a sign whose copy is limited to the name and address of a building, institution, or person or to the activity or occupation being identified.
- (55) **Illuminated Sign.** "Illuminated Sign" means any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign.
- (56) **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, and concrete, asphalt, or gravel driveways.
- (57) **Intensive Vegetation Clearing.** "Intensive Vegetation Clearing" means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

- (58) **Interim Use.** “Interim Use” means a use that is allowed for a limited period of time subject to the conditions set forth in Section 10.3 of this Ordinance.
- (59) **Interim Use Permit.** “Interim Use Permit” means a permit issued in accordance with the provisions of this Ordinance to allow a particular use on a lot within a zoning district that allows the use as an interim use. The permit is subject to the conditions imposed on it. The permit terminates on the date or the happening of the event identified in the permit, or by a change in zoning regulations.
- (60) **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, household items inoperable or stored outside of the structure, inoperable and/or unlicensed motor vehicles, recreational vehicles, agricultural, or construction machinery and parts thereof.
- (61) **Junk Vehicle(s).** “Junk Vehicle(s)” 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
- (62) **Legal Nonconforming Use.** “Legal Nonconforming Use” means a use lawfully in existence on the effective date of this Ordinance but not conforming to the regulations for the district in which it is situated.
- (63) **“Light Industrial”** means uses which include the compounding, processing, packaging, treatment, or assembly of products and materials provided such use will not generate offensive odors, glare, smoke, dust, noise, vibration or other objectionable influences that extend beyond the lot on which use is located, and does not normally require an urban level of public services such as centralized sewer and water.
- (64) **Loading Space.** “Loading Space” means a space accessible from a street, a building or on a lot, for the use of trucks while loading and unloading merchandise or materials.
- (65) **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.
- (66) **Lot Area.** “Lot Area” means the area of a horizontal plane within the lot lines.

- (67) **Lot Frontage.** “Lot Frontage” means the width of a lot measured along the line separating the lot from any street, except that, for a lot that abuts on more than one street, the lot frontage is the sum of the width of the lot measured along the line separating the lot from the street yielding the least width plus one-half of the widths of the lot measured along the lines separating the lot from the other streets.
- (68) **Lot Line.** “Lot Line” means any boundary line of a lot, provided that where any lot is encroached upon by a public street, road, or highway, or by any private road easement which was recorded in the office of the County Recorder prior to the effective date of this Ordinance, or otherwise appears binding on the lot owner for the purpose of meeting the minimum requirements of this Ordinance, the lot line shall be the right-of-way line of any such street, road, highway or private easement.
- (69) **Lot Line, Rear.** “Lot Line, Rear” means the boundary of a lot, other than a through lot, which is opposite the front lot line.
- (70) **Lot Line, Side.** “Lot Line, Side” means those lines of a lot which begin at the point of intersection with a public right-of-way. Any boundary of a lot which is not a front or rear lot line.
- (71) **Lot Width.** “Lot Width” means the mean horizontal distance between the side lot lines of a lot, measured within the lot boundaries.
- (72) **Lot of Record.** “Lot of Record” means any lot that was recorded by deed or filed as a separate parcel with the office of the Pine County Recorder.
- (73) **Manufactured or Mobile Home.** “Manufactured or Mobile Home” means a detached dwelling structure used for living purposes that is transportable in one or more sections and placed on an engineered foundation and anchored to resist overturning, uplift and sliding.
- (74) **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.

- (75) **Marina.** "Marina" means either an inland or offshore commercial mooring facility for the concentrated mooring of seven (7) or more watercraft or seaplanes wherein commercial ancillary services common to marinas are provided.
- (76) **Minor Subdivision.** "Minor Subdivision" means a subdivision of land into a total of no more than three (3) or less lots that does not adversely affect the remainder of the parcel or adjoining property, and does not conflict with any applicable laws, rules, and Ordinances
- (77) **Minerals.** "Minerals" means the non-metallic materials found naturally in the earth including, but not limited to rock, sand, gravel, clay, silt, and soil which may be covered by overburden.
- (78) **Minimum Lot Size.** "Minimum Lot Size" means minimum area, width, and depth required in the Ordinance.
- (79) **Mining Operation.** "Mining Operation" means operations involving the excavation of rock, sand, gravel, clay, silt, soil, and other like minerals for commercial purposes.
- (80) **Multi-Family Dwelling.** "Multi-Family Dwelling" means a building which is designed for or occupied by more than two (2) families living in separate dwelling units. This term does not include hotels, motels, lodging houses, boarding houses, bed and breakfasts, short term rentals or tourist homes.
- (81) **Nonconforming Sewage Treatment System.** "Nonconforming Sewage Treatment System" means those septic systems 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 drain field or mound rock bed 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, Sub. 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.
- (82) **Nonconforming Structure.** "Nonconforming Structure" means a structure that does not conform with the regulations established by this Ordinance for the zoning district in which it

is located, but which was lawfully constructed or placed prior to the effective date of the regulations to which it does not conform.

- (83) **Nonconforming Use.** “Nonconforming Use” means a use that does not conform with the regulations established by this Ordinance for the zoning district in which it is located, but which was lawfully established prior to the effective date of the regulations to which it does not conform.
- (84) **Off-Premise Sign.** “Off-Premise Sign” means any sign with a commercial message which directs the attention of the public to a business that is not on the same premises where such business sign is located.
- (85) **On-Premise Sign.** “On-Premise Sign” means a sign which pertains to the use of the premises or property on which it is located.
- (86) **Open Space.** “Open Space” means any space or area preserved in its natural state and specifically not used for parking, building, roads, or other impervious surfaces. Open space will be preserved by deed restrictions, covenants, permanent easements, public dedication, and acceptance.
- (87) **Ordinary High-Water Level or OHWL.** “Ordinary High-Water Level” (OHWL) means the boundary of public waters and wetlands, 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.
- (88) **Outdoor Recreational Facility.** “Outdoor Recreational Facility” means a facility in which athletic activities such as softball, soccer and baseball would be played, and uses oriented to utilizing the outdoor character of an area including hiking and biking trails and interpretive areas.
- (89) **Overburden.** “Overburden” means those materials which lie between the surface of the earth and the minerals to be excavated.
- (90) **Permitted Use.** “Permitted Use” means a use that may be lawfully established in a particular zoning district, provided it conforms with all requirements of this Ordinance, including obtaining any required zoning permits, and any performance standards applicable to such use.

- (91) **Planning Commission.** “Planning Commission” means the Windemere Township Planning Commission established by ordinance adopted by the Town Board and which is authorized to carry out the duties as provided by law, the ordinance establishing the Planning Commission, and this Ordinance.
- (92) **Plat.** “Plat” means the drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statutes Chapter 505 and containing all elements and requirements set forth therein, and complying with this Ordinance.
- (93) **Preliminary Plat.** “Preliminary Plat” means a drawing in preliminary form indicating a proposed layout of a subdivision to be submitted to the Planning Commission for a hearing and recommendation, and then to the Town Board for consideration. If approved, the developer must satisfy the conditions placed on the preliminary plat approval before applying for final plat approval.
- (94) **Principal Structure.** “Principal Structure” means the primary or main structure on land which contains the principal use of the land. All other structures on the same land that are subsidiary to, or that support, the principal structure are considered an accessory structure.
- (95) **Principal Use.** “Principal Use” means the primary or main use of land that is allowed as a permitted, interim, or conditional use under this Ordinance and for which all required permits have been obtained.
- (96) **Processing.** “Processing” means operations involving the crushing, screening, washing, compounding or treatment of rock, sand, gravel, clay, silt, soil, and other like minerals being conducted within the Town, including the production of asphalt compositions for pavement, ready mix concrete, and the recycling of previously used concrete and asphalt.
- (97) **Public Park.** “Public Park” means public lands and open spaces which are designed or reserved for recreational purposes.
- (98) **Public Use.** “Public Use” means a use of land owned or operated by a municipality, school district, county or state agency or another government entity.
- (99) **Public Utility.** “Public Utility” means persons, corporations, or governments supplying gas, electric, transportation, water, sewer or land lying telephone service to the general public.
- (100) **Public Waters.** “Public Waters” means any waters as defined in Minnesota Statutes, section 103G.005, subdivisions 15 and 15a.
- (101) **Recreational Camping Vehicle.** “Recreational Camping Vehicle” means the following:

- a. any vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses.
- b. any structure designed to be mounted on a truck chassis for use as a 13 temporary dwelling for travel, recreation, and vacation.
- c. any portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle which does not require a special highway moving permit; or
- d. any folding structure, mounted on wheels and designed for travel, recreation, and vacation use that does not exceed 102 inches in width and 40 feet in length.

(102) **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.

(103) **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.

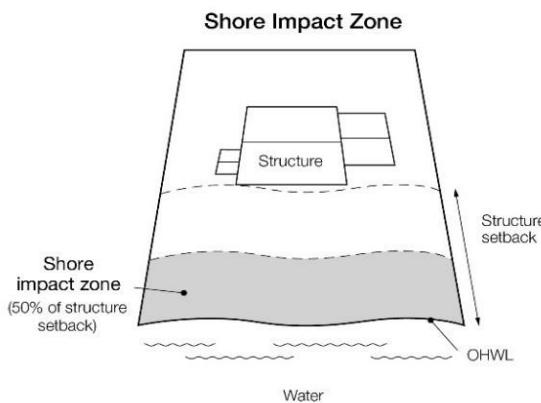
(104) **Right-of-Way.** “Right-of-Way” means land dedicated for public use as a street or way or for private use such as a power line or railroad.

(105) **Road.** “Road” means a public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, place or however otherwise designated.

(106) **Salvage Yard.** “Salvage Yard” means land or buildings where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled, or handled for commercial purposes, including, but not limited to, scrap products and products for wrecking of automobiles, other vehicles accessory to any business or industrial use on the same lot.

(107) **Second Dwelling Unit.** “Second Dwelling Unit” means a dwelling unit that is intended to allow a family member or guest to live independently. For the purposes of this section, the term “family member” would include a parent, stepparent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew, or niece. This relationship may be by blood or marriage. For the purposes of this section, a “guest” shall not include an individual or entity renting the second dwelling unit.

- (108) **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. Automobile fuels shall not be sold, or motor vehicles shall not be equipped, repaired, hired or sold from any storage unit or area.
- (109) **Semi-Public/Public Use.** "Semi-Public/Public Use" means the use of land by a public, private, non-profit organization, or tribal agency to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
- (110) **Sensitive Resource Management.** "Sensitive Resource Management" means the preservation and management of areas unsuitable for development in their natural state due to constraints such as 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.
- (111) **Setback, Front.** "Setback, Front" means the minimum horizontal distance from the front of the building disregarding steps and roofs to the street right-of-way. Where a lot abuts streets on opposite sides or abuts public waters, the front, for setback purposes, shall be the side of the property abutting the street right-of-way which is recognized as the location of the property for purposes of its address or 911 location. For corner lots in a platted area, the front, for setback purposes, shall be the side of the property abutting both streets.
- (112) **Setback, Rear.** "Setback, Rear" means the minimum horizontal distance from the rear of the building disregarding steps and roofs to the property line opposite the street.
- (113) **Setback, Side.** "Setback, Side" means the minimum horizontal distance from the side of the building to the property or lot line, disregarding steps and roofs.
- (114) **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 Pine County Subsurface Sewage Treatment Systems Ordinance.
- (115) **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.
- (116) **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.



- (117) **Shoreland.** “Shoreland” means land located within the following distances from public waters: 1,000 feet from the ordinary high-water level 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. The area within the Shoreland is regulated by the Shoreland Overlay District Article X along with the underlying zoning district.
- (118) **Short-Term Rental.** “Short-Term Rental” means any home, cabin, condominium, or similar building that is advertised as, or held out to be, a place where sleeping quarters are furnished to the public on a nightly, weekly or for less than 30-day time period and is not a bed and breakfast, apartment complex, resort, hotel, or motel. The short term rental excludes Commercial Planned Unit Development as defined in the Windemere Township Zoning Ordinance.
- (119) **Sign.** “Sign” means a name, identification, description, display, illustration, or device which is fixed to or painted or represented directly or indirectly upon a building or other outdoor surface or piece of land and which directs attention to an object, product, place, activity, person, institution, organization, or business.
- (120) **Sign Area.** “Sign Area” means the space inside a continuous line drawn around and enclosing all letters, designs, and background materials, exclusive of border, trim and structural supports. For the purpose of calculating the sign area of back-to-back signs, the stipulated maximum sign area shall refer to a single face, provided the internal radius of the sign does not exceed 45 degrees.
- (121) **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 uncharted 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 uncharted cemeteries are automatically considered to be significant historic sites.
- (122) **Single-Family Dwelling.** “Single-Family Dwelling” means a detached dwelling designed exclusively for occupancy by one family and containing not more than one dwelling unit.

- (123) **Site Plan.** "Site Plan" means a scaled drawing which shows the uses and structures proposed for a parcel of land. It also includes information concerning the landscape features of a given parcel.
- (124) **Sketch Plan.** "Sketch Plan" means a drawing showing the proposed general design lines of lots or suggestion for the layout of streets and lots to serve a contemplated platted area.
- (125) **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.
- (126) **Surface Area of Sign.** "Surface Area of Sign" means the entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including structural elements outside the limits of such sign and not forming an integral part of the display.
- (127) **Structural Alteration.** "Structural Alteration" means any change in a building or structure affecting its supporting members such as bearing walls or partitions, beams, girders, etc. Roofs or exterior walls are included. Incidental repairs shall not be considered as alterations.
- (128) **Structure.** "Structure" means that which is built or constructed, an edifice or building or appurtenance thereto, or any piece of work artificially built up, or composed of parts joined together in some definable manner, except aerial or underground utility lines such as: sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting appurtenances.
- (129) **Subdivision.** "Subdivision" means the division of a parcel of land after the effective date of this Ordinance into two or more lots, outlots or parcels, for the purpose of transfer of ownership or building development, including the location and dedication of necessary roads to serve such lots. The term includes, but is not limited to, plats subject to Minnesota Statutes, chapter 505.
- (130) **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.

(131) **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 ordinary high-water level, whichever is higher.

(132) **Top of the Bluff.** “Top of the Bluff” means the higher point of a 50-foot segment with an average slope exceeding 18 percent.

(133) **Topsoil.** “Topsoil” means that portion of the overburden which lies closest to the surface of the earth and which supports the growth of vegetation.

(134) **Tower.** “Tower” means any ground or roof-mounted pole, spire, structure or a combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masks, intended primarily for the purpose of mounting an antenna, meteorologic device, or similar apparatus above grade.

(A) **“Amateur Radio Tower”** means a tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate antennas of multiple users as required by this Ordinance.

(B) **“Accessory Tower Utility Building”** means all utility buildings and structures accessory to a tower.

(C) **“Building Mounted Antenna”** means a wireless communications antenna mounted on or attached to the roof or wall of an existing building.

(D) **“Commercial Tower”** means a tower designed or used for commercial wireless telecommunications services, public radio transmission or commercial television transmission.

(E) **“Exempted Dish”** means a satellite or microwave dish that is two meters or less in diameter and used for reception of signals exclusively for the occupants of the property on which it is located.

(F) **“Multi User Tower”** means a tower to which is attached the antennas of more than one commercial wireless telecommunications service provider or governmental entity.

(G) **“Residential Television Tower”** means a tower used exclusively for the non-commercial reception of television signals, which is located on the same property as the television(s), and does not exceed 40 feet in height.

(H) **“Single User Tower”** means a tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate antennas of multiple users as required by this Ordinance.

(135) **Town.** “Town” means Windemere Township, Pine County, Minnesota.

(136) **Town Board.** “Town Board” means the Board of Supervisors of Windemere Township, Pine County, Minnesota.

(137) **Use.** “Use” means the purpose for which land, or buildings thereon, are designed, arranged, or intended to be occupied or used, or for which they are occupied or maintained.

(138) **Variance.** “Variance” means a modification of the literal provisions of this Ordinance granted when strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration. Variances shall be granted only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Ordinance. “Practical difficulties” as used in connection with the granting of a variance means that the property owner proposes to use the property in a reasonable manner not permitted by this Ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. The Board of Adjustment may not permit as a variance a use that is not allowed under this Ordinance for property in the zone where affected person’s land is located.

(139) **Wall Sign.** “Wall Sign” means a sign attached essentially parallel to and extending not more than 24 inches from the wall of a building with no copy on the sides or edges. This includes painted signs, cabinet signs and signs on a mansard.

(140) **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 or commercial 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.”

(141) **Water-Oriented Accessory Structure or Facility.** “Water-Oriented Accessory Structure or Facility” means a small, above ground storage building , 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. .

- (142) **Water-Oriented Commercial Residential District.** “Water-Oriented Commercial Residential District” means a zoning district intended for uses, including mixed uses, that integrate existing or future surface water oriented commercial or residential uses that are connected to municipal sewer. It is also intended to encourage development through the Commercial and Residential Planned Unit Development process in a way that balances economic growth with preserving waterfront characteristics, ensuring diverse housing and commercial options that meet the needs of both residents and visitors.
- (143) **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.”
- (144) **Window Sign.** “Window Sign” means a sign attached to, placed upon, or painted on the interior of a window that is visible from the exterior of the building, including signs that are placed on the backs of shelving units or similar structures, or interior walls where the sign is located less than seven feet from the window’s surface.
- (145) **Yard.** “Yard” means an open space on a lot which is unoccupied and unobstructed from its lowest level to the sky, except as otherwise permitted in this Ordinance.
- (146) **Yard, Front.** “Yard, Front” means a yard extending along the full width of the front lot line between side lot lines and from the abutting front street right-of-way line to the front building line in depth.
- (147) **Yard, Rear.** “Yard, Rear” means that portion of the yard on the same lot with the principal building, located between the rear building line and the rear lot line and extending the full width of the lot.
- (148) **Yard, Side.** “Yard, Side” means a yard extending along a side lot line between the front and the rear yards.
- (149) **Zoning Map.** “Zoning Map” means the areas comprising the zoning districts and boundaries of said districts, as shown upon the map adopted by the Town Board and which is incorporated in and made part of this Ordinance. Said map, as it may be amended, shall constitute the official Windemere Township Zoning Map.

2.2 **Rules of Interpretation.** The language set forth in the text of this Ordinance shall be interpreted in accordance with the rules of construction:

- (1) The word “person” includes firm, association, organization, company, partnership, cooperative, or corporation as well as an individual;

- (2) The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular;
- (3) The word "shall" is mandatory and the word "may" is permissive;
- (4) The word "lot" shall include the words "plot," "piece," "parcel," and "property" and shall be interpreted broadly to give full effect of the provisions of this Ordinance;
- (5) All distances, unless otherwise specified, shall be measured horizontally, and all distances expressed in feet shall be to the nearest 1/10 of a foot;
- (6) General words are construed to be restricted in their meaning by preceding particular words;
- (7) Specific language shall be controlling over general language;
- (8) Use of the term Zoning Administrator includes the person duly appointed for that position or their designee.
- .
- (9) References in this Ordinance to any statutes, rules, regulations, or ordinances shall include any amendments to, or successors of, those statutes, rules, regulations, or ordinances. Furthermore, such references shall serve to incorporate those statutes, rules, regulations, or ordinances by reference to the extent necessary to achieve the intent and purposes of this Ordinance. However, such incorporations are intended only to give effect to this Ordinance and are not intended to make the Town responsible for the administration or enforcement of the referenced statutes, rules, regulations, or ordinances;
- (10) The listing of examples to further explain a term, concept, requirement, or process is not intended to be, and shall not be interpreted as, an exclusive listing. Unless the context clearly indicates otherwise, such listings are intended to be explanatory without being exclusive or limited. The exception to this general rule of interpretation is the listing of uses allowed in a district, which is intended to be limited to only those uses and the uses the Town Board finds to be substantially similar as provided in this Ordinance; and
- (11) All provisions of this Ordinance have meaning. No provisions of this Ordinance are mere boilerplate. Courts of competent jurisdiction shall enforce all provisions of this Ordinance with equal force and effect and shall not substitute the Court's judgement as to which terms and conditions are enforceable and which terms and conditions are not enforceable.

ARTICLE III
ZONING DISTRICTS AND ZONING MAP

3.1 **Zoning Districts.** All of the land within the Town located outside the jurisdictional boundaries of a City shall be placed within a zoning district. The following zoning districts are hereby established for the Town:

- (1) A-1 Agricultural-Open Space District
- (2) R-2 Rural Residential
- (3) R-3 High Density Residential
- (4) C-1 Commercial
- (5) F-1 Forest Management District
- (6) S-2 Special Protection District

3.2 **Zoning Map.** The location and boundaries of the Districts established by this Ordinance are hereby set forth on the official zoning map, which is adopted and incorporated herein by reference. The zoning map is on file with the Town Clerk and reflects the above-listed districts. The zoning map shall be available for public inspection during regular office hours, if any, and at such other reasonable times upon request.

3.3 District Regulations.

3.3.1 **Generally.** Land within a particular zoning district shall be subject to: the general standards, regulations, and restrictions contained within this Ordinance; any specific standards, regulations, and restrictions established in this Ordinance for the particular district; any performance standards established for the particular use; and any applicable standards, regulations, and restrictions imposed by any other applicable federal, state, and local laws, rules, regulations, and ordinances.

3.3.2 **Identified Uses.** Except as otherwise provided in this section, only those uses that are expressly identified by this Ordinance as being allowed within a district may occur within that district, and then only upon the issuance of all required permits and compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances. If an owner proposes to undertake a use that is not expressly allowed in the particular district, the owner may apply for an amendment to the text of the Ordinance to add the use to those allowed within the zoning district or seek a rezoning of the property to a district in which the use is allowed.

3.3.3 Uses Allowed by Statute. The legislature has adopted various provisions by statute requiring local governments to treat certain uses as permitted or conditional uses within their respective jurisdictions for the purposes of zoning regulations. Notwithstanding the general prohibition contained herein of uses not expressly allowed by this Ordinance, this Ordinance shall be interpreted as allowing those uses the legislature expressly requires the Town to allow. Such uses shall be classified as provided in the legislative mandate and shall only be allowed in those areas described in the applicable statute, and then only to the extent and scope as prescribed in the statute. For example, Minnesota Statute, section 462.357, subdivision 7 requires a licensed day care facility serving twelve (12) or fewer persons to be considered a permitted single-family residential use of property. As such, this Ordinance shall be interpreted as allowing that specific use as a permitted residential use, but only up to a capacity of twelve (12) persons. A proposed use that exceeds the scope described in the statute shall not be allowed unless the expanded use is expressly allowed in the particular zoning district by this Ordinance. Furthermore, if the statute indicates the use is to be allowed as a conditional use, the use may only occur upon the submission of an application and receipt of a conditional use permit from the Town. All mandated uses shall obtain all permits and permissions as required by this Ordinance and all other applicable laws.

3.3.4 Essential Services. Notwithstanding anything to the contrary in this Ordinance, essential services shall be permitted as authorized and regulated by State law and other ordinances of the Town, it being the intention that such services are exempt from the application of this Ordinance, except to the extent expressly provided otherwise herein.

3.3.5 The following provisions apply to all zoning districts:

- (1) No accessory structure or use may be established on a lot in the R-2, R-3 or C-1 zoning district without the establishment of a principal structure or use on the same lot unless the lot is over 40 acres. The maximum size of an accessory structure without principal structure in any zoning district shall be 1200 square feet and only one accessory structure is permitted.
- (2) New recreational vehicle parks are prohibited.
- (3) Every building hereafter erected shall be located on a lot having frontage on a public right-of-way unless approved with private ingress and egress easements or public easement for access as approved by the Town Board.
- (4) Storing Or Parking Junk Vehicle Prohibited: It is unlawful for any person to park, store or leave any junk motor vehicle, whether attended or not, upon any public or private property within the town, or for any person, as an owner of or an occupant having control of private property within

the town to permit the parking, storing or leaving of any junk vehicle upon such private property, unless such junk vehicle is within an enclosed building or structure.

- (5) The use and occupancy of a tent, RV or other temporary dwelling for the purpose of permanent living quarters is not permitted in any district.
- (6) In the case of a double frontage lot, it shall meet the lot width and setback requirements on both frontages that abut any roads or lakes.
- (7) In all districts where single family dwellings are permitted, the following standards shall apply for single family dwellings:
 - (A) The minimum width of the main portion of the structure shall be not less than twenty (20) feet, as measured across the narrowest portion.
 - (B) All dwellings shall be placed on a permanent foundation and anchored to resist overturning, uplift and sliding.

3.4 **Recording this Ordinance.** The Town Clerk shall record this Ordinance, and any subsequent amendments made hereto, in the office of the Pine County Recorder after adoption.

3.5 **Interpretation of District Boundaries.** Interpretation of the boundaries of the Zoning Map shall be the responsibility of the Planning Commission and such interpretation shall be done in accordance with this subsection.

3.5.1 District Boundaries. The boundaries between zoning districts are, unless otherwise indicated, the centerline of town roads. These boundaries may also follow lot lines or other property lines as indicated on the maps and the center of rivers or streams.

3.5.2 Areas Under Water. All areas within the corporate limits of the Town that are under water shall be subject to all of the regulations of the zoning district which immediately adjoins the water area.

3.6 **Summary Table.** For ease in comparing basic lot width, lot area, and setback requirements of the zoning districts in this Ordinance, the following table is provided. Where there is an exception to any

figure in the table, the exception is footnoted. Properties within the Shoreland Overlay District area also subject to standards and uses found in Article 10.

MINIMUM REQUIREMENTS

Zone District	Lot Area \$	Buildable Area	Lot Width	Maximum Lot Coverage	Lot Line Setback				Front Yard
					Side Yard		Rear Yard		
A-1 Agricultural	20 acres	1 acre	660 ft		P	A	P	A	* ***See note below 100 ft
					35 ft	10 ft	50 ft	100 ft	
R-2 Residential (Unsewered)	5 acres	1 acre	300 ft	10%	15 ft#	10 ft	20 ft	10 ft	30 ft
R- 2 Residential (Sewered)	2.5 acres	22,000 sq ft	150 ft	20%	10 ft#	10 ft	20 ft	10 ft	73 ft ^
R-3 High Density (Unsewered)	40,000	20,000 sq ft	100 ft	10%	10 ft	10 ft	20 ft	10 ft	73 ft ^
R-3 High Density (Sewered)	22,000 sq ft	22,000 sq ft	100 ft	10%	10 ft	10 ft	20 ft	10 ft	20 ft
C-1 Commercial	2.5 acres	1 acre	300 ft	90%	10 ft	10 ft	20 ft	10 ft	20 ft

(Unsewered)									
C-1 Commercial (Sewered)	1.5 acres	22,000 sq ft	300 ft	90%	10 ft	10 ft	20 ft	10 ft	20 ft
F-1 Forest Management District	10 acres	1 acre	330 ft		35 ft		50 ft	100 ft	100 ft
SP-2 Special Protection	40 acres	1 acre	1320 ft		35 ft		50 ft		100 ft

P = Principal Structure

A = Accessory Structure

* Front yard set back will be measured to the designated right of way line or to the road side property line.
(Determination based on meets and bounds description or plotted description)

** When a parcel borders more than one public right-of-way, the front yard setback applies to all sides of the property adjacent to a public right-of-way.

Side yard setbacks for R-2 Residential shall be 25' in the Shoreland Overlay District

^ Front yard setback for principal structure of seventy-three (73) feet from the centerline of all county roads and streets or thirty (30) feet from the road right-of-way, whichever is more restrictive. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the thirty (30) foot setback shall be measured from the easement.

\$ All lots in the shoreland overlay district shall be a minimum of 5 acres.

**ARTICLE IV
AGRICULTURAL DISTRICT (A-1)**

4.1 **Agricultural District.** The purpose of the Agricultural District (A-1) is to preserve, promote, maintain, and enhance the use of the land in the district primarily for rural living, agricultural purposes and forestry while allowing some residential development. In the Agricultural District (A-1), no land or buildings shall be used in whole or part except for one or more of the following allowed uses.

4.2 **Permitted Uses.** The following uses are allowed within the Agricultural District (A-1) as a matter of right:

- (1) Agricultural uses.
- (2) Single-family dwelling including seasonal cabin.
- (3) Houses of worship.
- (4) Home Occupation I.
- (5) Forestry and nurseries.
- (6) Seasonal greenhouses for the sale of garden plants to customers arriving on-site.
- (7) One temporary or seasonal structure for the sale of an agricultural product of any of the above permitted uses provided that such structure is located not less than twenty (20) feet from the road right-of-way line and that adequate off-street parking is provided. Parking must be located not less than twenty (20) feet or more from the road right-of-way line and provides adequate access to prevent a vehicle from backing onto the road.
- (8) Public parks, recreational trails, wildlife areas, game refuges and forest preserves owned or operated by governmental agencies or non-profit entities.
- (9) Cannabis Cultivator.

4.3 **Accessory Uses:** The following uses are permitted accessory uses:

Any structure or use which is incidental to the permitted agricultural use. Accessory uses include:

- (1) Accessory Structures including garages with a maximum floor area per structure of 1,200 square feet or less.
- (2) Fencing.
- (3) Operation and storage of vehicles, equipment and machinery which is incidental to the permitted principal use.
- (4) Recreational facilities.
- (5) Signs, on-site, subject to provision of Section 11.9 of this ordinance.
- (6) Sheds.

4.4 **Conditional Uses.** The following uses may be allowed in the Agricultural District (A-1) as conditional uses, subject to the provisions regarding the issuance of a conditional use permit:

- (1) Accessory structures with a floor area greater than 1,200 square feet.
- (2) Agricultural commercial activities directly related to agriculture, such as tractor or tire repair, veterinary office, welding, seed, and agricultural chemical sales, that do not employ more than six employees.
- (3) Borrow pits and related facilities including but not limited to portable crushing, screening, and batching equipment on properties which have access to public sewer and water
- (4) Cannabis Delivery Service.
- (5) Cannabis Manufacturer.
- (6) Cannabis Testing Facility.
- (7) Cemeteries meeting county and state guidelines.
- (8) Feedlots subject to the provisions in Section 9.3

- (9) Home Occupation II
- (10) Public utility structures without service or storage yards.
- (11) Public, parochial, private and nursery schools.
- (12) Public or private facilities involving repeated frequent discharge of firearms such as firing ranges, sporting clay courses, trap/skeet shooting and hunting preserves.
- (13) Public or Private Racetracks/BMX Courses for motorized vehicles or animals
- (14) Temporary Cannabis Event

4.5 **Interim Uses.** The following uses may be allowed in the Agricultural District (A-1) as interim uses, subject to the provisions regarding the issuance of an interim use permit:

- (1) Extractive uses related facilities including but not limited to portable crushing, screening, and batching equipment on properties which have access to public sewer and water.

4.6 **Prohibited Uses.** The following uses are expressly prohibited in the Agricultural District (A-1):

- (1) Cannabis Retailer.
- (2) Lower-Potency Hemp Edible Retailer
- (3) Salvage Yards.
- (4) Temporary Cannabis Event.

4.7 **Area, Dimensional and Setback Requirements.** The following requirements apply to structures within the Agricultural District (A-1):

- (1) Maximum height of any structure shall be thirty-five (35) feet. This shall not apply to silos, grain storage or drying equipment, and other farm structures.
- (2) The depth of the lot shall not be greater than four (4) times the lot width.
- (3) Parking Requirements, parking shall be provided in accordance with the requirements for specific uses set forth in Article 11.10 of this Ordinance.

ARTICLE V RURAL RESIDENTIAL DISTRICT (R-2)

5.1 **Rural Residential District (R-2).** The purpose of the Rural Residential District (R-2) is to preserve, promote, maintain, and enhance the use of the land in the district primarily for rural living, medium density, semi-rural or suburban on moderate size lots. In the Residential District, no land or buildings shall be used in whole or part except for one or more of the following allowed uses.

5.2 **Permitted Uses.** The following uses are allowed within the Residential District (R-2) as a matter of right:

- (1) Agricultural uses, excluding livestock.
- (2) Single-family dwelling, including seasonal cabin.
- (3) Two- family dwelling. Provided lot size is at least 1-1/2 times the minimum lot area and lot width required for single family dwelling within the R-2 District.
- (4) Publicly owned or operated forest reserve.
- (5) Church or religious institution.
- (6) Home Occupation I.

(7) Assisted living facility.

5.3 **Accessory Uses:** The following use may be allowed in the Residential District R-2 as an accessory use.

Any structure or use which is incidental to the permitted use, including:

- (1) Accessory structures including garages with a maximum floor area per structure of 1,200 square feet or less.
- (2) Fencing.
- (3) Operation and storage of vehicles, equipment and machinery which is incidental to the permitted principal use.
- (4) Sheds.
- (5) Signs, on-site, subject to provision of Article 9.8 of this ordinance.

5.4 **Conditional Uses.** The following uses may be allowed in the Residential District (R-2) as conditional uses, subject to the provisions regarding the issuance of a conditional use permit:

- (1) Accessory structure with a floor area of over 1,200 square feet.
- (2) Forestry and nurseries.
- (3) Home Occupation II.
- (4) One temporary or seasonal structure for the sale of an agricultural product of any of the above permitted uses provided that such structure is located not less than twenty (20) feet from the road right-of-way line and that adequate off-street parking is provided. Parking must be located not less than twenty (20) feet or more from the road right-of-way line and provides adequate access to prevent a vehicle from backing onto the road.
- (5) Public parks, recreational trails, wildlife areas, game refuges and forest preserves owned or operated by governmental agencies or non-profit entities.
- (6) Public utility structures without service or storage yards.
- (7) Seasonal greenhouses for on-site retail sales of garden plants.

5.5 **Prohibited Uses.** The following uses are expressly prohibited in the Residential District (R-2):

- (1) Agricultural activities involving Livestock.
- (2) Cannabis Retailer.
- (3) Feedlots.
- (4) Lower-Potency Hemp Edible Retailer.
- (5) Salvage Yards.
- (6) Temporary Cannabis Event.

5.6 **Area, Dimensional and Setback Requirements.** The following requirements apply to structures within the Residential District (R-2):

- (1) Maximum height of any structure shall be 35 feet. This shall not apply to silos, grain storage or drying equipment, and other farm structures.
- (2) Front yard setback for principal structure of seventy-three (73) feet from the centerline of all county roads and streets or thirty (30) feet from the road right-of-way, whichever is more restrictive. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the thirty (30) foot setback shall be measured from the easement.
- (3) The maximum lot depth to width ratio shall not exceed 3 to 1.
- (4) Parking Requirements, parking shall be provided in accordance with the requirements for specific uses set forth in Article 11.10 of this Ordinance.

ARTICLE VI **HIGH DENSITY RESIDENTIAL DISTRICT (R-3)**

6.1 **High Density Residential District.** The district is intended to provide more intense residential use of land in areas of existing high density.

6.2 **Permitted Uses.** The following uses are allowed within the Residential High Density District (R-3) as a matter of right:

- (1) Single family dwelling, including seasonal cabin.
- (2) Recreational camping vehicle for seasonal use see Section 9.5.
- (3) Home Occupation I.

6.3 **Accessory Uses:** The following use may be allowed in the Residential District R-3 as an accessory use.

- (1) Accessory structures including garages with a maximum floor area per structure of 1,200 square feet or less.
- (2) Fencing.
- (3) Sheds.
- (4) Signs, on-site, subject to provision of Article 9.8 of this ordinance.

6.4 **Conditional Uses.** The following uses may be allowed in the Residential High Density District as conditional uses, subject to the provisions regarding the issuance of a conditional use permit:

- (1) Accessory structures with a maximum floor area greater than 1,200 square feet.
- (2) Group homes, on properties which have access to public sewer and water.
- (3) Home occupation II.
- (4) Multiple family dwelling on properties which have access to public sewer and water.
- (5) Mobile home park, on properties which have access to public sewer and water.
- (6) Public facility renovation.

6.5 **Area, Dimensional and Setback Requirements.** The following requirements apply to structures within the Residential High Density District (R-3):

- (1) Maximum height of any structure shall be 35 feet. This shall not apply to silos, grain storage or drying equipment, and other farm structures.
- (2) The maximum lot depth to width ratio shall not exceed 3 to 1.

(3) Parking Requirements, parking shall be provided in accordance with the requirements for specific uses set forth in Article 11.10 of this Ordinance.

ARTICLE VII COMMERCIAL DISTRICT (C-1)

7.1 **Commercial District.** The purpose of the Commercial District (C-1) is to direct commercial development to appropriate locations which will promote the efficient delivery of goods and services while assuring the integrity of surrounding land uses.

7.2 **Permitted Uses.** The following uses are allowed within the Commercial District (C-1) as a matter of right:

- (1) Commercial Uses. Commercial retail and service establishments including but not limited to: general merchandise, motor vehicles, farm machinery, apparel, furniture, hardware, food, eating, drinking, lodging, personal and professional services, entertainment and recreation facilities and services, finance, insurance and real estate services which include highway commercial and neighborhood commercial uses.
- (2) Light Industry, including interior warehousing.
- (3) Signs, on-site and off-site, subject to provisions of Article 9.8 of this Ordinance.
- (4) Single-family dwelling unit if physically attached to the commercial establishment.
- (5) Houses of worship.
- (6) Cannabis retailer.
- (7) Lower-Potency hemp edible retailer.
- (8) Temporary cannabis event.
- (9) Cannabis wholesaler.
- (10) Public, noncommercial recreational uses including trails, parks, beaches, wayside rests, etc.

7.3 **Accessory Uses:** The following uses may be allowed in the Commercial District C-1 as an accessory use:

- (1) Accessory structures with a maximum floor area per structure of 1,200 square feet or less.
- (2) Fencing.
- (3) Garages.
- (4) Operation and storage of vehicles, equipment and machinery which is incidental to the permitted principal use.
- (5) Signs, on-site, subject to provision of Article 9.8 of this ordinance.
- (6) Sheds.

7.4 **Conditional Uses.** The following uses may be allowed in the Commercial District (C-1) as conditional uses, subject to the provisions regarding the issuance of a conditional use permit:

- (1) Accessory structures with a maximum floor area of greater than 1,200 square feet
- (2) Agricultural commercial activities directly related to agriculture, such as tractor or tire repair, veterinary office, welding, seed, and agricultural chemical sales, that do not employ more than six employees.
- (3) Cannabis delivery service.
- (4) Cannabis transporter.
- (5) Cemeteries meeting county and state guidelines.
- (6) Kennels.
- (7) Nursing homes and hospitals.
- (8) Public or private facilities involving repeated frequent discharge of firearms such as firing ranges, sporting clay courses, trap/skeet shooting and hunting preserves.
- (9) Public utility structures.
- (10) Resorts, campgrounds and other commercial recreational facilities.

7.5 **Area, Dimensional and Setback Requirements.** The following requirements apply to structures within the Commercial District (C-1):

- (1) Maximum height of any structure shall not exceed 35 feet.
- (2) Parking Requirements, parking shall be provided in accordance with the requirements for specific uses set forth in Article 11.10 of this Ordinance.

ARTICLE VIII
FOREST MANAGEMENT DISTRICT (F-1)

8.1 **Forest Management District.** The purpose of the Forest Management District (F-1) is 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 governmental services are provided in this District. The forest areas also help maintain the natural character of the Town, and can be valuable for dispersed recreational activities. In the Forest Management District (F-1), no land or buildings shall be used in whole or part except for one or more of the following allowed uses.

8.2 **Permitted Uses.** The following uses are allowed within the Forest Management District (F-1) as a matter of right:

- (1) Agricultural uses.
- (2) Home occupation I.
- (3) Seasonal or recreational cabins.
- (4) Single family dwelling including a manufactured home.
- (5) Temporary wood processing activities.

8.3 **Accessory Uses:** The following uses are permitted accessory uses:

Any structure or use which is incidental to the permitted use. Accessory structures include:

- (1) Accessory Structures with a maximum floor area per structure of 1,200 square feet or less.
- (2) Garages.
- (3) Fencing.
- (4) Operation and storage of vehicles, equipment and machinery which is incidental to the permitted principal use.
- (5) Sheds.
- (6) Signs, on-site, subject to provision of Article 9.8 of this ordinance.

8.4 **Conditional Uses.** The following uses may be allowed in the Forest Management (F-1) as conditional uses, subject to the provisions regarding the issuance of a conditional use permit:

- (1) Accessory structures with a maximum floor area of 1,200 square feet or greater.

8.5 **Area, Dimensional and Setback Requirements.** The following requirements apply to structures within the Forest Management District (F-1):

- (1) Maximum height of any structure shall be 35 feet. This shall not apply to silos, grain storage or drying equipment, and other farm structures.
- (2) Parking Requirements, parking shall be provided in accordance with the requirements for specific uses set forth in Article 11.10 of this Ordinance.

ARTICLE IX **SPECIAL PROTECTION DISTRICT (SP-2)**

9.1 **Special Protection District.** The purpose of the Special Protection District (SP-2) is to protect those areas that are environmentally sensitive to aquifers, wetlands and woodlands. In these areas, development will be limited to protect the natural resources as well as the health and safety of the citizens in the community.

9.2 **Permitted Uses.** The following uses are allowed within the Special Protection District (SP-2) as a matter of right:

- (1) Agriculture uses.
- (2) Flood control and watershed structures, erosion controls.
- (3) Forestry and Nurseries.
- (4) Single family dwelling including manufactured home.
- (5) Public recreation uses.
- (6) Historic sites.

9.3 **Accessory Uses**

Any structure or use which is incidental to the permitted use. Accessory structures include:

- (1) Accessory structures with a maximum floor area per structure of 1,200 square feet or less.
- (2) Fencing.
- (3) Garages.
- (4) Sheds.
- (5) Operation and storage of vehicles, equipment and machinery which is incidental to the permitted principal use.
- (6) Signs, on-site, subject to provision of Article 9.8 of this ordinance.

9.4 **Conditional Uses.** The following uses may be allowed in the Forest Management (SP-2) as conditional uses, subject to the provisions regarding the issuance of a conditional use permit:

- (1) Accessory structures with a maximum floor area greater than 1,200 square feet.
- (2) Cemeteries.
- (3) Commercial outdoor recreation.

9.5 **Area, Dimensional and Setback Requirements.** The following requirements apply to structures within the Special Protection District (SP-2):

- (1) Maximum height of any structure shall be 35 feet. This shall not apply to silos, grain storage or drying equipment, and other farm structures.
- (2) Parking Requirements, parking shall be provided in accordance with the requirements for specific uses set forth in Article 11.10 of this Ordinance.

9.6 **Special Protection District Performance Standards.** Construction of any use listed above shall conform to all standards in this Ordinance or applicable subdivision regulations on drainage, erosion

and sedimentation, wet soils, tree removal, septic tanks and drainfields. No draining of wetlands shall be permitted in this District.

ARTICLE X SHORELAND OVERLAY DISTRICT

10.1 Statutory Authorization and Policy

10.1.1 **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, sections 462.351 – 462.364.

10.1.2 **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.

10.2 General Provisions and Definitions

10.2.1 **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 twenty-five (25) acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the Town Board, be exempt from this Ordinance.

10.2.2 **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.

10.2.3 **Enforcement.** The 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 under this Ordinance. The Zoning Administrator and the Town Attorney are authorized to issue stop work orders, cease and desist orders, corrective orders, and such other orders on the Town's behalf as may be required to administer and enforce this Ordinance. In addition, or as an alternative, to criminal prosecution, the Town may authorize the filing of a civil action to restrain or correct a violation of this Ordinance.

10.2.4. **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. This Ordinance is to be interpreted consistent with state law, the County's shoreland regulations, the stricter provisions contained herein, and the Town's underlying zoning regulations.

10.2.5 **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.

10.2.6 **Abrogation and Prior Regulations.** 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. This Ordinance supersedes and replaces any regulations within the 2015 Windemere Township Zoning Ordinance that are inconsistent with the provisions of this Ordinance. This Ordinance is intended to update and replace the Town's previous shoreland regulations to comply with the requirements of Minnesota Statutes, chapter 103F and Minnesota Rules, parts 6120.2500 – 6120.3900.

10.2.7 **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, buildings 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.

10.3 **Administration**

10.3.1 Town **Board and Planning Commission.** The existing Windemere Town Board and Planning Commission is hereby recognized and vested with such authority as provided by statutes and Ordinances. It shall be composed as set forth in the Article 14 and shall serve the same role with respect to this Section.

10.3.2 **Variances from Standards.** The Board of Appeals and 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, section 462.357, subdivision 6(2) consistent with Section 10.4 of this ordinance. 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 Appeals and Adjustment may impose 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. The applicant is responsible for demonstrating to the Board of Appeals and Adjustment that its request satisfies all of the following criteria.

10.3.3 **Variance applications** for structure setbacks, impervious surface, or other standards of the shoreland overlay district may volunteer variance mitigation consistent with the practices set forth in this section, to strengthen consistency with variance criteria of Minnesota Statutes, section 462.357, subdivision 6(2).

(1) Mitigation. The following example variance mitigation activities may be volunteered.

- (A) 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.
- (B) Maintain, restore and maintain, or plant and maintain a 10' wide natural vegetated buffer along the top of a bluff or steep slope.
- (C) Removal of structures or patios that do not meet the standard structure setbacks, including water-oriented structures.
- (D) Maintain impervious surfaces (excluding bedrock) to at most half of the applicable Ordinance maximum (12.5% impervious or less).
- (E) Reduction of 5% impervious surfaces excluding bedrock (may be done for multiple increments).
- (F) Re-vegetate bluff or steep slopes with natural vegetation.
- (G) Provide screening of structures from the lake (may be done for multiple increments).
- (H) 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.
- (I) Stabilize eroding shoreline with natural vegetation. Any grading must follow natural contours of shoreline.
- (J) Installation of 150 square foot natural vegetation infiltration area, within 150' of the OHWL (may be done for multiple increments).

(2) 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.

10.4 Conditional Uses

10.4.1. **Application for conditional use permit.** Any use listed in this Ordinance as a conditional use may be permitted only after an application to the Zoning Administrator for a conditional use permit has been reviewed and approved consistent with Section 15.2.

10.4.2. **Standards applicable to conditional uses in the Shoreland Overlay District include:**

- (1) The maintenance of safe and healthful conditions.
- (2) The prevention and control of water pollution including sedimentation.
- (3) Existing topographic and drainage features and vegetative cover on the site.
- (4) The location of site with respect to flood plains and floodways of rivers or streams.
- (5) The erosion potential of the site based upon degree and direction of slope, soil type, and vegetative cover.
- (6) The location of the site with respect to existing or future access roads.
- (7) The need of the proposed use for a shoreland location.
- (8) The visibility of structures and other facilities as viewed from public waters is limited.
- (9) The site is adequate for water supply and on-site sewage treatment.
- (10) 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 watercrafts.
- (11) Its compatibility with uses on adjacent land.
- (12) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems; and
- (13) Locational factors under which:
 - (A) Domestic uses shall be generally preferred.
 - (B) uses not inherently a source of pollution within an area shall be preferred overuses that are or may be a pollution source; and
 - (C) use locations within an area tending to minimize the possibility of pollution shall be preferred overuse locations tending to increase that possibility.
 - (D) The Conditional Use Permit will not be detrimental to the use and enjoyment or property values of other properties within 500' of the subject property.
 - (E) Adequate measures are included to provide off-street parking to serve the proposed use, as no on-street.
 - (F) The applicable criteria for conditional uses in the Zoning Ordinance.

10.4.3. **Conditions attached to conditional uses.** Upon consideration of the factors listed above, the Planning Commission may attach such conditions, in addition to standards

and requirements imposed 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, the following: 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.

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

10.5 **Shoreland Zoning Amendments.**

The Town Board may adopt amendments to this Ordinance and the 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 Town as long the shoreland Ordinance, land use map, and zoning map continue to be consistent with and no less restrictive than the Pine County Ordinance as required by Minnesota Statutes, section 394.33.

10.5.1 **Kinds of amendments**

- (1) A change in a district's boundary (rezoning)
- (2) A change in a district's regulations
- (3) A change in any other provision of this Ordinance

10.5.2 **Initiation of proceedings**

- (1) Proceedings for amending this Ordinance may be initiated by any of the following methods:

- (A) By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed.

- (B) By recommendation of the Planning Commission.

- (C) By action of the Town Board.

10.5.3 **Required exhibits for rezoning or district regulation changes initiated by property owners**

- (1) A preliminary building or structure and site development plan. Site plan requirements are as listed in Section 3.4.1 of this Ordinance.

- (2) Evidence of ownership or enforceable option or easement on the property.

10.5.4 **Procedure**

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

- (A) The applicant completes the application form and pays the required filing fee with the Zoning Administrator.

- (B) The Planning Commission reviews the request, sets the public hearing, and prepares the notices.

- (C) The Planning Commission prepares its recommendation after the public hearing and forwards it to the Town Board.

- (D) The Town Board makes the final decision on whether to approve or deny the amendment request. The Town Board may revise the language of a proposed amendment before adoption.

10.5.5 **Pine County Review**

- (1) The Town shall provide the County a copy of any proposed amendments at the time of providing notice of the public hearing to consider such amendments. The County may review and provide its comments to the Town on the proposed amendments. The Town Board may adopt amendments to this Ordinance and the Zoning Map if it determines such amendments are at least as restrictive as the county Ordinance and its administration, including:

- (A) Dimensional standards are at least as restrictive as county controls.

- (B) Land uses prohibited by Pine County are prohibited in the Town.

- (C) All other controls are consistent with and no less restrictive than Pine County Controls.

- (D) Proposed administration and enforcement are at least as effective as county administration and enforcement.

10.6 **Notifications to the Department of Natural Resources and Pine County**

10.6.1 Proposed amendments to this Ordinance shall be sent to the Commissioner's designated representative and Pine County for review and comment at least 10 days before a public hearing to consider the amendment as required in Minnesota Rules, part 6120.5000, subpart 6. Documentation shall include:

- (1) The proposed amendment
- (2) Other Ordinance provisions documenting administration and enforcement of shoreland provisions, if not contained in the shoreland Ordinance.
- (3) Other documentation explaining administrative responsibility and coordination between the Town and the County relating to the amendment, if applicable.

10.6.2 Copies of all notices of any public hearings to consider variances, interim uses, or conditional uses under local shoreland management controls must be sent to the Pine County Zoning Administrator and 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.

10.6.3 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 Pine County Zoning Administrator and the Commissioner or the Commissioner's designated representative and postmarked within ten (10) days of final action.

10.6.4 In addition to formal notifications, the Town 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.

10.7 **Shoreland Classification System and Overlay Districts**

10.7.1 **Shoreland Classification System.** The public waters within the Town 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.

- (1) The shoreland classifications are for the waterbodies listed in Sections 4.1.2 and are defined in Section 2.7
- (2) Lakes

A. Natural Environment Lakes				
Protected Lakes Inventory I.D. #	Lake Home	Township	Range	Section

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	45	19	19,30
58-74	Johnson	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	Unnamed	45	19	29,30
58-64	Unnamed	45	19	7
58-65	Unnamed	45	19	8
58-66	Little North Sturgeon	45	19	8,17
58-72	Unnamed	45	19	19,20

B. Recreational Development Lakes				
Protected Lakes Inventory I.D. #	Lake Home	Township	Range	Section
58-62	Island	45	19	3,4,8,9
58-67	Sturgeon	45	19	9,10,15,16,17,20,21
58-68	Eleven	45	19	11
58-69	Twelve	45	19	12
58-76	Passenger	45	19	28,29,32,33

	58-78	Rush	45	19	28,29
	58-81	Sand	45	19	4,5,6

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, Sub. 3, Item B, subitem (3) and 105.0120 relating to statewide standards and criteria for Wild, Scenic and Recreational Rivers.

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

10.7.2 **Shoreland Overlay Districts.** The following overlay districts have been established in accordance with their compatibility with the public water's classification.

- (1) The shorelands within the Town are hereby divided into the following districts:
 - (A) Special Protection District (SP)
 - (B) Residential—Recreational District (RR)
 - (C) High Density Residential District (HD)
 - (D) Water-Oriented Commercial District (WC)
 - (E) Water-Oriented Commercial-Residential District (WCR)
 - (F) General Use District (G)

10.7.3 The location and boundaries of the districts established by this Ordinance are set forth on the zoning map and shoreland overlay zoning map which is hereby incorporated as part of this Ordinance. A copy of the official zoning map shall be kept in the Zoning Administrator's office. It is the responsibility of the Zoning Administrator to continually maintain and update this map as needed. Any

amendments to the zoning map shall be recorded on such map within thirty (30) days after the Town Board's adoption of an amendment affecting the Zoning Map.

10.7.4 Final determination of the exact location of land use district boundaries shall be made by the Zoning Administrator, subject to appeal to the Board of Appeals and Adjustment as provided in Article 14.3 of this Ordinance.

10.8 **Districts and Purposes**

10.8.1 **Special Protection District (SP) Purpose.** The Special Protection District (SP) 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.

10.8.2 **Residential Recreational District (RR) Purpose.** The purpose of the Residential-Recreational District (RR) 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 procedures.

10.8.3 **High Density Residential District (HD) Purpose.** The purpose of the High-Density Residential District (HD) 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 such as residential planned unit development, surface water-oriented commercial, multiple units, single family, parks, historic sites, and semi-public/public are also allowed, primarily as conditional uses.

10.8.4 **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.

10.8.5 **Water-Oriented Commercial Residential District (WRC) Purpose.** The purpose of the Water-Oriented Commercial Residential District (WRC) is intended for uses, including mixed uses, that integrate existing or future surface water oriented commercial and residential uses. It is also intended to encourage development through the

Commercial and Residential Planned Unit Development process in a way that balances economic growth with preserving waterfront characteristics, ensuring diverse housing and commercial options that meet the needs of both residents and visitors.

10.8.6 **General Use District (G) Purpose.** The purpose of the General Use District (G) 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.

10.9 **Allowed Uses.** Allowed uses for each district are shown from Article IV to Article IX, which are the underlying zoning districts of each parcel within the Shoreland Overlay Zoning District. Uses not specifically listed as allowed uses in a district shall be prohibited in that district, unless granted under the provisions of Article 10 of the Windemere Township Shoreland Ordinance. All uses shall comply with all applicable state and federal regulations and shall meet the applicable shoreland 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

Use	Recreational development	Natural environment
Forest management	P	P
Sensitive resource management	P	P
Agricultural: cropland and pasture	P	P
Agricultural feedlots	C	C
Parks and historic sites	C	C
Extractive use	C	C
Mining of metallic minerals and peat	N	N

<u>Classes in</u>	Single residential	C	C	10.9.1	<u>Lake</u>
	Home Occupations	C	C	Special Protection District	
	Essential Services	P	P		
	Short-term Rental	C	C		
	Event Venue	N	N		

10.9.2 **Lake Classes in Residential Recreational District**

Use	Recreational development	Natural environment
Single residential	P	P
Duplex	P	C
Semi-public/Public	C	C
Parks and historic sites	C	C
Extractive use	C	C
Forest management	P	P
Mining of metallic minerals and peat	N	N
Essential Services	P	P
Short-term Rental	P	N
Home Occupations	P	P
Event Venue	N	N

10.9.3 **Lake Classes in High Density Residential District**

Use	Recreational development	Natural environment
Single residential	P	P
Duplex	C	N
Residential planned unit developments	C	N
Surface water oriented commercial	C	N
Semi-public/Public	C	C
Parks and historic sites	C	C
Forest management	P	P
Essential Services	P	P
Short-term Rental	P	N
Home Occupations	P	P
Event Venue	N	N
Commercial Planned Unit Development	C	N

10.9.4

Lake Classes in Water-Oriented Commercial District

Use	Recreational development	Natural environment
Surface water-oriented commercial	C	N
Commercial planned unit development	C	N
Semi-public/Public	C	C
Parks and historic sites	C	C
Forest management	P	P
Essential Services	P	P
Self-Storage Garage	C	C
Event Venue	C	N

10.9.5

Lake Classes in Water-Oriented Commercial Residential District

Use	Recreational development
Single residential	P
Duplex, triplex, quad residential	P
Residential planned unit developments	C
Surface water oriented commercial	C
Semi-public/Public	C
Parks and historic sites	C
Forest management	P
Essential Services	P
Short-term Rental	P
Event Venue	C
Commercial Planned Unit Development	C
Self-Storage garage	C

10.9.6 **Lake Classes in General Use District**

Use	Recreational development	Natural environment
Commercial	P	C
Commercial planned unit development	C	N
Industrial	C	N
Semi-public/Public	P	C
Extractive use	C	C
Parks and historic sites	C	C
Forest management	P	P
Mining of metallic minerals and peat	N	N
Essential Services	P	P
Self-Storage Garage	C	C
Surface water-oriented commercial	C	N
Event Venue	C	N

10.9.7

River Classes in Special Protection District

Use	Tributary
Forest management	P
Sensitive resource management	P
Agricultural: cropland and pasture	P
Agricultural feedlots	C
Parks and historic sites	C
Extractive use	C
Mining of metallic minerals and peat	N
Single residential	C
Essential Services	P
Short-term Rental	C
Home Occupations	C
Event Venue	N

10.9.8 **River Classes in Residential Recreational District**

Use	Tributary
Single residential	P
Duplex	C
Semi-public/Public	P
Parks and historic sites	P
Extractive use	C
Forest management	P
Mining of metallic minerals and peat	N
Essential Services	P
Short-term Rental	P
Home Occupations	P
Event Venue	C

10.9.9 **River Classes in High Density Residential District**

Use	Tributary
Single residential	P
Duplex, triplex, quad residential	P
Residential planned unit developments	C
Commercial planned unit developments	C
Surface water oriented commercial	C
Semi-public/Public	C
Parks and historic sites	C
Forest management	P
Essential Services	P
Short-term Rental	P
Home Occupations	P
Event Venue	C

10.9.10. **River Classes in Water-Oriented Commercial District**

Use	Tributary
Surface water-oriented commercial	C
Commercial planned unit development	C
Semi-public/Public	P
Surface water oriented commercial	C
Parks and historic sites	C
Forest management	P
Essential Services	P
Self-Storage Garage	C
Event Venue	C

10.9.11 River Classes in General Use District

Use	Tributary
Commercial	C
Commercial planned unit development	C
Industrial	C
Semi-public/Public	C
Extractive use	C
Surface Water Oriented Commercial	C
Parks and historic sites	C
Forest management	P
Mining of metallic minerals and peat	N
Essential Services	P
Self-Storage Garage	C
Event Venue	N

10.10 Minor Subdivisions in the Shoreland Overlay District

10.10.1 Minor Subdivision Process An application for a minor subdivision shall comply with the process and application requirements as found in Article 12 Section 12.6.

10.11 Placement, Design, and Height of Structures

10.11.1 **Placement of structures on Lots.** For properties in the Shoreland Overlay District, including all properties within the SP, RR, HD, WC, WCR or G districts the following lists the required setbacks. When more than one (1) setback applies to a site, structures and facilities shall be located to meet all setbacks.

(1) Structure and On-site Sewage System Setbacks (in feet) from Ordinary High-Water Level*

Classes of Public Waters	Setbacks * Structures - Unsewered	Structures - sewered	Sewage Treatment System
Lakes			
Natural Environment	150	150	150
Recreational Development	150	150	150
Rivers			
Tributary Streams	150	150	150

(2) **Additional Structure Setbacks.** The following additional Principal and Accessory Structure Setbacks apply, regardless of the classification of the waterbody. Unless specifically exempt by this Article 10

Setback From	Setback (in feet)
1. Top of bluff	30
2. Unplotted 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 Structure setbacks (measured from the lot line to the building side wall)	25

- (3) **Bluff Impact Zones.** Only stairways and landings, can be placed within bluff impact zones built in a manner that ensures control of soil erosion demonstrated in a plan produced by a licensed engineer.
- (4) **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 ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
- (5) A guest cottage must not cover more than seven hundred (700) square feet of land surface and shall not exceed fifteen (15) feet in height.
- (6) Recreational Vehicles and Camping.
 - (A) General.
 - (1) All recreational vehicles (RV) must be designated to operate on roads without a special permit and must have a current license. These provisions apply to all recreational vehicles, including fish houses (wheel houses) that are licensed as such. April 1 to November 1?
 - (2) RV's must meet all principal structure setback requirements for the zone they are located in.
 - (3) Any occupied RV, including one that is intermittently occupied between April 1 and November 1 of any calendar year shall meet domestic sewage disposal requirements in accordance with Pine County sewage standards and standards of this ordinance.
 - (4) Any occupied RV, including one that is intermittently occupied between April 1 and November 1 of any calendar year shall obtain a permit from the Town or is in violation of this code.
 - (5) A property within the Shoreland District may have up to one occupied RV with permit.
 - (6) A property within the Shoreland District may have up to one RV stored at the property, it cannot be occupied and must be placed behind the principal structure and cannot be located between the principal structure and the DNR lake.
 - (B) Temporary Vehicles/Buildings. Hereafter no person shall erect, alter the outside dimensions, or move any building or *part* thereof without first securing a permit. Licensed fish houses or "wheelhouses" may be temporarily parked in shoreland areas with

a permit, provided setback requirements of Section 10.12 and 3.6 are met.

(C) Existing Campgrounds. The limitations imposed by this Section on the number of recreational vehicles that may be located on a property does not apply to lawfully established campgrounds that exist as of the effective date of this Ordinance.

(7) **Impervious Surfaces.** Development within the Shoreland Overlay District shall comply with the following Impervious Surface Requirements:

Shoreland Designation	Impervious Surface Maximum
SP	25%
RR	Sewered 20%, Unsewered 10%
HD	25%
WC	25%
WOR	25%
G	25%

10.11.2 **Design Criteria for Structures**

(1) **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:

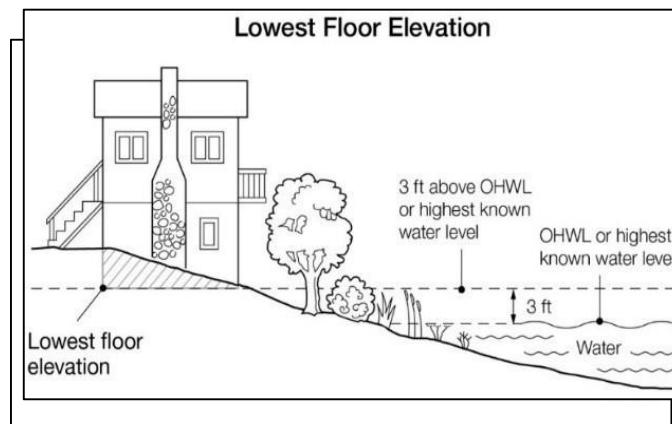
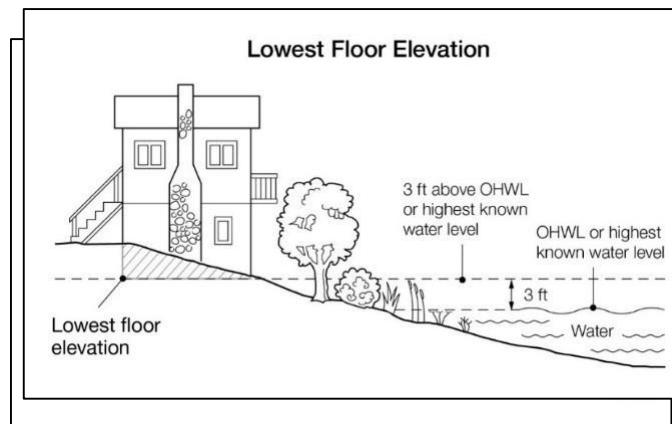
(A) For lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level, or three (3) feet above the ordinary high-water level, whichever is higher.

(B) 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 ordinary high-water level, 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 licensed professional engineer or hydrologist consistent with parts 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.

(C) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this Ordinance 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.

(D) 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.



(2) **Water Oriented Accessory Structures.** Each Lot may have one (1) water oriented Accessory Structure not meeting the normal Structure Setback in Section 3.6 and 10.12 of this Ordinance if this water oriented accessory structure complies with the following provisions:

- (A) 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.
- (B) The Setback of the Structure or facility from the ordinary high-water level must be at least: twenty-five (25) feet for all water-oriented Structures defined by this ordinance.
- (C) 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.
- (D) The structure or facility must not be designed or used for human habitation and must not contain sewage treatment facilities.

(3) **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:

- (A) Not be located in shore impact zone except as water-oriented accessory structure according to Section 5.3.2.B.
- (B) Be free standing.
- (C) Have no railings.
- (D) 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 Section 10.15 of this Ordinance.
- (E) Not be more than one foot below or above natural ground level.
- (F) Construction complies with all provisions of Sections 10.13 and 10.15 of this Ordinance
- (G) The maximum Impervious Surface limits in 10.12.7 for the Lot shall not be exceeded.

(4) **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.

- (A) Stairways and lifts must not exceed four (4) feet in width on residential Lots. Wider stairways may be used for commercial properties, public open space recreational properties, and planned unit developments.
- (B) Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public open space recreational properties and planned unit developments.
- (C) Canopies or roofs are not allowed on stairways, lifts or landings.
- (D) Stairways, lifts and landings may be either constructed above the ground on posts or pilings or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion demonstrated with a plan produced by a licensed engineer.
- (E) 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.
- (F) 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 (A) to (E) are complied with in addition to the requirements of Minnesota Rules, chapter 1340.

(5) **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.

(6) **Steep Slopes.** A licensed professional engineer must evaluate possible soil erosion impacts and development visibility from Public Waters. This report would be given to the Zoning Administrator and Pine County before issuing a permit for construction of roads, driveways, structures, on-site sewage treatment systems 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.

10.11.3 **Height of Structures.** All structures in residential districts, except churches and non-residential agricultural structures, must not exceed twenty-five (25) feet in height.

10.11.4 The outside storage of junk and debris, junk vehicles, major appliances, and waste tires in the shore impact zone is prohibited. The accumulation of agricultural machinery, except tire piles, on land classified for property tax purposes as agricultural is exempt from this section, provided that fluids have been drained and contained.

10.12 **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.

10.12.1 Vegetation Alterations

(1) Vegetation alteration necessary for the construction of permitted structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 10.14, 11.10 and 11.11 of this Ordinance are exempt from the vegetation alteration standards that follow.

(2) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Article IV and Article VII and, respectively, is allowed subject to the following standards:

(A) 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.

(B) 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 unit and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas and permitted water oriented accessory structures or facilities, provided that.

NOTE: A maximum of 50% of brush and shrubs may be removed up to a diameter of 1 inch. A maximum of 33% of vegetation from a 1 inch to a 3 inch diameter may be removed. Diameter of vegetation will be based on measurement at a 6-inch height above grade. Removal of trees larger in diameter than 3 inches may be approved based on a Zoning Permit obtained from the Zoning Administrator. All tree removal permits will be based on topographic conditions to promote erosion control and improved water quality.

- (C) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.
- (D) Along river, existing shading of water surfaces is preserved.
- (E) The above provisions are not applicable to the removal of trees, limbs or branches that are dead, diseased, or pose safety hazards.

10.12.2 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.

10.12.3 Topographic Alterations/Grading and Filling

- (1) 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.
- (2) Roads, driveways, and parking areas are regulated by Section 10.14, 11.10 and 11.11 of this Ordinance.
- (3) Notwithstanding Items (1) and (2) above, a grading and filling permit will be required for the movement of more than ten (10) cubic yards of material within the shoreland overlay district..
- (4) 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:
 - (A) Grading, filling in any type 1,2,3,4,5,6,7, or 8 wetlands must be approved by the Pine County Soil and Water Conservation District, Minnesota Department of Natural Resources, and/or

Army Corps of Engineers, with a copy being provided to the Town 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:

- (1) sediment and pollutant trapping and retention.
- (2) storage of surface run-off to prevent or reduce flood damage:
- (3) fish and wildlife habitat.
- (4) recreational use.
- (5) shoreline or bank stabilization; and
- (6) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

(B) 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.

(C) Mulches 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.

(D) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

(E) All grading and filling plans must be reviewed and 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 Town prior to commencing work.

(F) Fill or excavated material must not be placed in a manner that creates an unstable slope, and erosion controls must be used.

(G) Plans to place fill or excavated material on steep slopes must be reviewed by a licensed engineer for continued slope stability and must not create finished slopes of thirty percent (30%) or greater.

(H) Fill or excavated material must not be placed in bluff impact zones.

- (I) Any alterations below the ordinary high-water level of public waters must first be authorized by the Commissioner under Minnesota Statutes, section 103G.245.
- (J) 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.
- (K) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if:
 - (1) The finished slope does not exceed three (3) feet horizontal to one (1) foot vertical,
 - (2) The landward extent of the riprap is within ten (10) feet of the ordinary high-water level,
 - (3) The height of the riprap above the ordinary high-water level does not exceed three (3) feet,
 - (4) 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 Town and the Pine County Soil and Water Conservation District.
 - (5) 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. Concrete is not allowed.
 - (6) A filter of crushed rock, gravel, or filter fabric material must be placed underneath the rock.
 - (7) Construction of retaining walls taller than 2' within the shore impact zone is prohibited unless designed by a licensed professional engineer.
 - (8) 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.
- (5) 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 DNR Commissioner and/or Pine County has approved the proposed connection to public waters.

(6) 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.

10.13 Placement and Design of Roads, Driveways, and Parking Areas

- 10.13.1 Construction of roads, driveways, and parking areas shall require a zoning permit, and may require a right of way permit, from the Town.
- 10.13.2 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 licensed professional engineer 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.
- 10.13.3 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.
- 10.13.4 Public and private watercraft access ramps, approach roads, and access related parking areas, as approved by the DNR, 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 10.12 of this Ordinance must be met.

10.14 Stormwater Management

The following general and specific standards shall apply:

10.14.1 General Standards

- (1) 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.
- (2) 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.

- (3) 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- manmade materials and facilities.

10.14.2 Specific Standards

- (1) Impervious surface coverage of lots must not exceed The coverage permitted in 10.12.7
- (2) 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.
- (3) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

10.15 Special Provisions for Commercial, Industrial, Semi-Public/Public, Agricultural, Forestry, Extractive Uses, Mining of Metallic Minerals and Peat, Home Occupation, Short-Term Rental.

10.15.1 Standards for Commercial, Industrial, and Semi-Public/Public Uses

- (1) Surface water-oriented commercial uses and industrial, or semi-public/public 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:

- (A) In addition to meeting impervious 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.
 - (B) 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.

(C) 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:

- (1) 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.
- (2) 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 sixteen (16) square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.
- (3) 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.

- (2) 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 ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

10.15.2

Agriculture Use Standards

- (1) 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 an 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.

10.15.3 **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."

- (1) Driveway access to home-based businesses must be adequate to support the type of business allowed. Access locations shall not be unsafe or be obscured by vegetation, topography, signage, horizontal roadway curves, or vertical roadway curves.
- (2) No activity shall be permitted that will create a public hazard or public nuisance or otherwise be incompatible with adjacent residential uses.
- (3) Home-based businesses requiring plumbing shall be consistent with the provisions of Pine County Subsurface Sewage Treatment Systems Ordinance.
- (4) Security lighting shall be directed away from adjacent roadways and properties
- (5) Home-based businesses shall be allowed a single advertising sign not to exceed 30 square feet in area or be located closer than ten (10) feet from any property line or roadway easement for each permitted business.

10.15.4 **Short-Term Rental Standards.** Short-term rentals may only be operated under a valid permit issued by the Town and shall be subject to the Standards set forth in the current Windemere Township Short Term Rental Ordinance.

10.16 Water Supply and Sewage Treatment

10.16.1 **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.

10.16.2 **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:

- (1) Publicly owned Sewer Systems must be used when available.
- (2) All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's 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 Chapter 7080 regulations, all septic systems shall comply with the Pine County Subsurface Sewage Treatment System Ordinance.
 - (A) On-site sewage treatment systems must be set back from the ordinary high- water level in accordance with the setbacks contained in Section 10.12 of this Ordinance.

10.17 **Nonconformities.** All legally established nonconformities as of the date of this Ordinance may continue, but they will be managed according to the applicable state statutes including, but not limited to, Minnesota Statutes, section 462.357, subdivision 1e, paragraphs (d) to (j) and other regulations of the Town. The following standards shall also apply in shoreland areas:

10.17.1 Construction on Nonconforming Lots of Record

- (1) Lots of Record in the office of the County Recorder on the date of enactment of this Ordinance that do not meet the requirements of Section 3.6 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 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 the standards set forth in Section 10.12 of this Ordinance; and sewage treatment and setback requirements of this Ordinance are met.

- (2) If a variance from setback requirements must be obtained before any use, sewage treatment systems, or zoning permit is issued for a lot, the Board of Appeals and Adjustments shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
- (3) If, in a group of two or more contiguous lots under common ownership, any individual lot does not meet the requirements of 66% of the dimensional standard lot width and size described in Section 3.6 of this Ordinance, does not satisfy sewage treatment requirements, the impervious surface exceed 25% for each lot, or if development of the lot is not consistent with the Comprehensive Plans, 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 5.0 of this Ordinance as much as possible.
- (4) Notwithstanding Section 10.18.(3), 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 Statutes, section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.
- (5) 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) In evaluating all variances, zoning 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.

10.18 Repair, Restoration, Maintenance, or Improvement to Certain Nonconforming Structures

10.18.1 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 zoning 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 zoning permit is applied for, the Zoning Administrator may impose reasonable conditions upon a zoning 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 permit to mitigate created impacts on the adjacent property or water body.

10.18.2 Deck additions may be allowed without a variance to a structure not meeting the required setback from the OHWL if all of the following criteria and standards are met:

- (1) The structure existed on the date the structure setbacks were established.
- (2) The Zoning Administrator's evaluation of the property and structure reveals no alternative location for a deck meeting or exceeding the

existing ordinary high water level setback of the structure. The deck does not encroach into any shore impact or bluff impact zones.

(3) The deck is constructed primarily of wood and is not roofed or screened.

10.19 Nonconforming Sewage Treatment Systems

10.19.1 All nonconforming sewage treatment systems will be subject to the regulations described in the Pine County Subsurface Sewage Treatment Systems Ordinance as well as Minnesota Rules, chapter 7080.

10.20 Subdivision/Platting Provisions

10.20.1 **Land Suitability.** Each lot created through subdivision, including planned unit developments authorized under Section 10.22 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 Town 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 Town.

10.20.2 **Consistency With Other Controls.** Subdivisions must conform to all official controls of the Town. 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 10.12 and 10.17 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 3.6, including at least a minimum contiguous lot 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.

- (1) 10.20.3 **Information Requirements.** Sufficient information must be submitted by the applicant for the Town to decide land suitability. The information shall include at least the following:Topographic contours at ten (10) foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) Location of the 100-year flood plain areas and floodway districts from existing adopted maps or data.
- (6) A line or contour representing the ordinary high-water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- (7) A road design plan as well as all other requirements of the Windemere Subdivision of Land Article VII

10.20.4 **Subdivision Process.** A request for a minor subdivision shall be submitted and processed in accordance with Section 10.11 of this Ordinance.

10.20.5 **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.

10.20.6 **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 10.10 of this Ordinance.

10.21 Planned Unit Developments in the Shoreland Overlay District

10.21.1 **Types of PUDs Permissible.** Planned Unit Developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are a conditional use are identified in the land use district descriptions in Section 4.2 of this Ordinance and the Official Shoreland Zoning Map.

10.21.2 Processing of PUDs Planned Unit Developments must be processed as a conditional use, except that an expansion to an existing commercial PUD involving six (6) or fewer new dwelling units or sites since the date this Ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 8.5. Expansions exceeding these limits must be processed as conditional uses and meet the standards in this section. Approval cannot occur until the environmental review process (EAW/E1S) is complete.

10.21.3 **Application for a PUD.** The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

- (1) A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems and topographic contours at two (2) foot intervals. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.
- (2) A property owners association agreement (for residential PUDs)

with mandatory membership, and all in accordance with the requirements of Section 8.6 of this Ordinance.

- (3) Deed restrictions, covenants, permanent easements or other instruments that (1) properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and (2) ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 8.6 of this Ordinance.
- (4) When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.
- (5) Those additional documents as requested by the Windemere Town Board or Planning Commission that are necessary to explain how the PUD will be designed and will function.

10.21.4 **Site “Suitable Area” Evaluation.** Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Section 10.25.

- (1) The project parcel must be divided into tiers by locating one (1) or more lines approximately parallel to a line that identifies the ordinary high-water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions		
	Unsewered (feet)	Sewered (feet)
Recreational Development Lakes	267	267
Natural Environment Lakes	400	320
All River Classes	300	300

(2) The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high-water level of public waters. This suitable area and the proposed project area are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

10.21.5

Residential and Commercial PUD Density Evaluation. The procedures for determining the “base” density of a PUD and density increase multipliers are as follow. Allowable densities may be transferred from any tier to any other tier further from the waterbody but must not be transferred to any other tier closer.

(A) **Residential PUD “Base” Density Evaluation.** The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width **standard** times the tier depth. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analysis herein and the design criteria in Section 10.25.

(B) **Commercial PUD “Base” Density Evaluation**

(1) Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.

(2) Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development Floor Area Ratios*		
Public Water Classes		
Average Unit Floor Area (Sq. Ft.)	Second and additional tiers on unsewered general development lakes; recreational development	Natural environment lakes, natural environment-

	lakes; transition and forested river segments	tributary streams and remote river
200	0.02	0.01
300	0.024	0.012
400	0.028	0.014
500	0.032	0.016
600	0.038	0.019
700	0.042	0.021
800	0.046	0.023
900	0.05	0.025
1,000	0.054	0.027
1,100	0.058	0.029
1,200	0.064	0.032
1,300	0.068	0.034
1,400	0.072	0.036
1,500	0.075	0.037

* For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 sq. ft.

(3) Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

(4) Divide the total floor area by the tier computed in Item C above by the average inside living area size determined in Item A above. This yields a base number of dwelling units and sites for each tier.

(5) Proposed locations and numbers of dwelling units or sites for the commercial planned unit developments are then compared with the tier, density and suitability analyses herein and the design criteria in Section 8.6.

(C) **Density Increase Multipliers** Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 5.0 are met or exceeded and the design criteria in Section 8.6 are satisfied. The allowable density increases in Item B below will only be allowed if structure setbacks from the ordinary high-water level are increased to at least fifty percent (50%) greater than the minimum Setback, or the impact on the water body is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the Town and the setback is at least twenty-five percent (25%) greater than the minimum setback.

(1) Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Commercial Planned Unit Developments

Density Evaluation Tiers	Maximum Density Increase within Each Tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

10.21.6 **Maintenance and Design Criteria**

(A) **Maintenance and Administration Requirements**

- (1) Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
- (2) Open Space Preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instrument must include all of the following protections:
 - (3) Commercial uses prohibited (for residential PUDs)
 - (4) Vegetation and topographic alterations other than routine maintenance prohibited.
 - (5) Construction of additional buildings or storage of vehicles and other materials prohibited.
 - (6) Uncontrolled beaching of watercraft prohibited.
 - (7) Development Organization and Functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owner's association with the following features:
 - (8) Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers.
 - (9) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites.
 - (10) Assessments must be adjustable to accommodate changing conditions.
 - (11) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

(B) **Open Space Requirements.** Planned unit developments must contain open space meeting of all of the following criteria:

- (1) At least fifty percent (50%) of the total project area must be preserved as open space.
- (2) Dwelling units or sites, road rights-of-way or land covered by road surfaces, parking areas or structures, except water oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space.

- (3) Open space must include areas with physical characteristics unsuitable for development in their natural state and areas containing significant historic sites or unplotted cemeteries.
- (4) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public.
- (5) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
- (6) Open space must not include commercial facilities or uses but may contain water oriented accessory structures or facilities.
- (7) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means.
- (8) The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least fifty percent (50%) of the shore impact zone area of existing developments or at least seventy percent (70%) of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUDs, at least fifty percent (50%) of the shore impact zone must be preserved in its natural state.

(C) **Erosion Control and Stormwater Management.** Erosion control and stormwater management plans must be developed, and the PUD must:

- (1) Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impact on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

(2) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater run-off. Impervious Surface coverage within any tier must not exceed twenty-five percent (25%) of the tier area, except that for commercial PUDs, thirty-five percent (35%) impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 10.13.

(D) **Centralization and Design of Facilities.** Centralization and design of facilities and Structures must be done according to the following standards:

(1) Planned Unit Developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Sections 10.12 and 10.17 of this Ordinance. On-site sewage treatment systems must be located on the most suitable areas of the development and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system.

(2) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant Shoreland classification: setback from the ordinary high-water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high-water level must be increased in accordance with Section 10.173 of this Ordinance for developments with density increases.

(3) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for

continuous beaching, mooring, or docking of watercraft must not exceed one (1) for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in on existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

- (4) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent Shorelands by vegetation, topography, increased Setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved if existing or may be required to be provided.
- (5) Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized.
- (6) Water oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 10.12 of this Ordinance and are centralized.

ARTICLE XI **PERFORMANCE STANDARDS**

11.1 Extractive Uses.

11.1.1 Permit Review

- (1) An interim use permit shall be required for all mining operations, to the extent such operations are allowed within a zoning district.
- (2) Persons requesting a mining permit shall submit such fees as established by the Town Board to the Zoning Administrator, together with all information required in this Ordinance. The owner shall provide three copies of the required information.

(3) If the request is denied, no reapplication shall be made for a period of six (6) months.

11.1.2

Information Required. The following information shall be provided with the mining application:

(1) Name, address and telephone number of the person requesting the mining permit and the name, address, and telephone number of the owner of the property.

(2) The legal description of the property and acreage of area to be mined.

(3) A soil erosion and sediment control plan.

(4) A detailed statement of the purpose and extent of the proposed work, including the volume of material to be excavated for the mining operation by mining phase.

(5) A scale drawing or plan at a scale of approximately 100 feet to the inch of the property described in the application, and of a sufficient amount of surrounding property, explaining and showing:

- (A) The horizontal dimensions of the property described in the application;
- (B) The area to be excavated;
- (C) The location of any structures on the premises;
- (D) All roads and public easements within 1/4 mile of the pit site;
- (E) Proposed routes of access to public roads from the area to be excavated;
- (F) Location of all residences within 1/4 mile of the pit site;
- (G) Existing and proposed drainage on the pit site, and from the pit site for a distance of 1/4 mile.
- (H) Contour intervals not to exceed 10 feet, showing the slope of the proposed mine.
- (I) The horizontal dimensions of the proposed mine.
- (J) All setbacks from the roads and adjacent property lines to the mine.
- (K) The location, size and use of all structures on the parcel.
- (L) Existing and proposed drainage of the proposed mine and parcel site.
- (M) Location and nature of existing screening surrounding the mine site, and any proposed additional screening.

(6) A plan for dust and noise control.

(7) A full and adequate description of all phases of the proposed operation, and approximate amount to be mined.

- (8) A reclamation plan that provides for the orderly and continued rehabilitation of all excavated land to allow future development in compliance with the existing underlying zoning ordinance district.
- (9) Any other information requested by the Zoning Administrator that is reasonably necessary to review the request.

11.1.3

General Performance Standards. Extraction and mining operations are subject to the following standards:

- (1) Weeds and any other unsightly or noxious vegetation shall be cut or trimmed around buildings or structures as may be necessary to preserve a reasonably neat appearance and to prevent seeding an adjoining property.
- (2) All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.
- (3) To minimize the adverse effects on neighboring properties, hours of operation shall be limited to 7:00 am to 5:00 pm Monday through Friday. No mining or processing operations shall occur on Saturdays, Sundays or holidays.
- (4) The mining operation shall not interfere with surface water drainage beyond the boundaries of the mining operation. The mining operation shall not adversely affect the quality of surface or subsurface water resources.
- (5) Surface water originating outside and passing through the mining site shall, at its point of departure from the mining site, be of equal quality to the water at the point where it enters the mining site. The mining operation shall perform any water treatment necessary to comply with this provision.
- (6) **Safety Fencing.** Safety fencing may be required around all or portions of the mining operation, at the discretion of the Planning Commission.
- (7) **Mining Access Roads.** The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance on the public road and sufficient sight distances so that any turns onto the public road can be completed with a margin of safety. Mining access roads require approval by the Town Board.
- (8) **Screening Barrier.** To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier may be required between the mining site and adjacent properties. A screening

barrier may also be required between the mining site and any public road located within five hundred (500) feet of any mining or processing operation. The screening barrier which shall be comprised of an earthen berm and planted with a species of fast-growing trees.

(9) **Setbacks.**

- (A) Processing of minerals (stationary equipment) shall not be conducted closer than three hundred (300) feet to the property line, nor closer than five hundred (500) feet to any residential or commercial structures located prior to commencement of processing operations.
- (B) Mining operations shall not be conducted closer than forty (40) feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than three hundred (300) feet to the boundary of an adjoining property line, unless the written consent of the owner of record of such adjoining property is first secured in writing and the restoration plan provides sufficient protection.
- (C) Excavation of materials shall not occur closer than three hundred (300) feet from the residential dwelling located on an adjacent parcel.
- (D) Mining operations shall not be conducted closer than thirty (30) feet to the right-of-way line of any existing or platted street, road, or highway, except that excavating may be conducted within such limits in order to reduce the elevation (i.e. slope and vegetation) thereof in conformity to the existing or platted street, road, or highway.
- (E) Three-to-one (3:1) slopes shall be maintained adjacent to the property or right-of-way line. This standard may be waived with a written and executed agreement with the adjacent property owner. Such agreement shall be recorded in the Office of the County Recorder.

(10) **Appearance.** All buildings, structures, and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable, and according to acceptable industrial practices as to assure that such buildings, structures and plants will not become dangerously dilapidated.

(11) **Dust and Dirt.** All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, dust conditions that are injurious or substantially annoying to persons living in the vicinity. All access roads

from mining operations to public highways, roads, or streets, or to adjoining property, shall be maintained to minimize dust conditions.

(12) **Phased Operation.** To ensure that the mine is reclaimed in a timely manner, the mining operation shall be divided into phases of no more than 80 acres (80) per phase.

11.1.4

Rehabilitation and Reclamation. All mining sites shall be rehabilitated immediately after mining operation in a specific phase is completed or the entire mine ceases. Rehabilitation shall be completed within one (1) year after completion of each mining phase. The following standards shall apply:

- (1) Within a period of three (3) months after the termination of a mining operation, or within three (3) months after abandonment of such operation for a period of six (6) months, or within three (3) months after expiration of a mining permit, all buildings, structures and plants incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator last operating such buildings, structures and plants or by, and at the expense, of the landowner. An interim use permit may be granted for those buildings, structures, machinery and plants required to process previously mined materials stored on the site. Such permit may apply for only one (1) year, after which said buildings, structures, machinery and plants shall be removed.
- (2) The peaks and depressions of the area shall be graded and backfilled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion due to rainfall. No finished slope shall exceed thirteen (13) percent in grade.
- (3) Reclaimed areas shall be surfaced with soil of a quality at least equal to the topsoil of immediate surrounding land areas, and to a depth of at least three (3) inches. Such required topsoil shall be planted with legumes and grasses. Trees and shrubs may also be planted, but not as a substitute for legumes and grasses. Such planting shall be designed to adequately retard soil erosion. Excavations completed to a water producing depth need not be backfilled if the water depth is at least ten (10) feet, and if banks shall be sloped to the water line at a slope no greater than ten percent (10%). The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site upon which mining operations have been conducted. The finished plan shall restore the mining site to a

condition whereby it can be utilized for the type of land use proposed to occupy the site after mining operations cease.

- (4) The Town shall require the applicant or owner of the property on which the mineral extraction is occurring to post a letter of credit and cash escrow in such form and sum as determined by the Town Board as part of the permit. The security shall be sufficient to reimburse the following costs:
 - (A) Costs of bringing the operation into compliance with the Town's interim use permit requirements, including site monitoring and enforcement costs.
 - (B) Costs of repairing Town roads due to the special burden resulting from the hauling of materials and traffic associated with the operation. The amount of such cost shall be determined by the Town Board or an engineer retained by the Town.
 - (C) Site restoration.
 - (D) Costs the Town may incur in enforcing the terms of the interim use permit, including attorney's fees

11.2 **Borrow Pits**

11.2.1 Borrow Pits are a Conditional Use within the Agricultural District. Borrow pits are prohibited where the housing density within 1/4 mile of the site of the proposed pit is equal to or greater than one dwelling unit per 40 acres.

In all instances, in order to be considered for a Conditional Use Permit a proposed borrow pit operation shall meet the following criteria:

- (1) The applicant shall verify that the pit operation is for the principal purpose of road construction or maintenance in conjunction with a contract with, or directly conducted by, a government agency having road construction or maintenance responsibility.
- (2) The applicant shall specify the volume of material intended to be excavated or processed for the specified road or maintenance project and may exceed that volume by 25% for said project and may also exceed the original specified volume of material by 10%, which may be offered for general sale.
- (3) All permits issued under these provisions shall be valid for not longer than one year from the date of issuance and may be extended or renewed in conjunction with the same road construction project upon

inspection and approval of the Planning Commission. Stockpiled materials may continue to be removed for a period of three years from the expiration date of the permit.

(4) The applicant shall file with the Zoning Administrator an application on a form to be supplied by the Town containing the following information:

- (A) A detailed statement of the purpose and extent of the proposed work, including the volume of material to be excavated for the road project only;
- (B) A scale drawing or plan at a scale of approximately 100 feet to the inch of the property described in the application, and of a sufficient amount of surrounding property, explaining and showing:
 - (a) The horizontal dimensions of the property described in the application;
 - (b) The area to be excavated;
 - (c) The location of any structures on the premises;
 - (d) All roads and public easements within 1/4 mile of the pit site;
 - (e) Proposed routes of access to public roads from the area to be excavated;
 - (f) Location of all residences within 1/4 mile of the pit site;
 - (g) Existing and proposed drainage on the pit site, and from the pit site for a distance of 1/4 mile.
- (C) A detailed scale drawing, at a scale of not more than 100 feet to the inch, explaining and showing:
- (D) Contour intervals not to exceed 10 feet, showing the slope of the proposed pit;
- (E) The horizontal dimensions of the proposed pit site;
- (F) All setbacks from roads and adjacent property lines;
- (G) The location, size and use of all structures on the parcel;
- (H) Existing and proposed drainage of the proposed pit;
- (I) Location and nature of existing screening surrounding the pit site, and any proposed additional screening.
- (J) The following provisions shall apply to the establishment, operation and care of any borrow pit authorized under the terms of this Ordinance:
- (K) All clearing, excavating, stockpiling or filling attendant to pit operation shall be at least fifty feet from the right-of-way of any public road and one hundred feet from any common property line

between the pit site property and adjacent parcels where a residence is established, and fifty feet from vacant lands except those being mined.

- (5) Existing vegetation shall remain as a screen between the pit site and surrounding residences and public roads; where necessary and physically practicable, the Planning Commission may require additional screening between the pit site property and any residences within 1/4 mile, and shall file a sketch and description of the required screening in his records and provide a copy to the applicant.
- (6) The pit shall not drain directly into any public water as defined in this Ordinance.
- (7) All areas of the pit shall be adequately drained to prevent confinement of water wherever possible; no pit shall be excavated to a depth below the ground water table and dewatered without approval of the Department of Natural Resources.
- (8) All entrances and exits shall be constructed so as not to create a traffic safety hazard, and, during the hours of operation of the pit, "trucks hauling" signs shall be placed along all public roadways leading to the pit entrance(s) at a distance of not less than 500 feet from the entrance(s).
- (9) Entrance/exit roads shall be constructed so as to minimize the view into the pit from the public road wherever possible, such as the utilization of road curves, topography and existing vegetation.
- (10) All barriers controlling access to a borrow pit such as gates, etc., shall be utilized during the operation of the pit and shall be clearly visible to prevent safety hazards to snowmobilers and other members of the public. The use of cable, chain or similar type barriers is prohibited.
- (11) Dust control measures shall be utilized on non-paved routes.
- (12) Decibel levels, measured at the property line, shall conform to State O.S.H.A. regulations.
- (13) Crushers and hot mix plants to be operated in conjunction with any pit shall be operated in accordance with Minnesota Pollution Control Agency standards for air, pollution control and must be located on private property unless approved by the Town Board.
- (14) Hours of operation shall be limited to the hours between 7:00 A.M. and 8:00 P.M., Monday through Saturday.
- (15) Concurrent reclamation shall occur during the operation as well as at completion of borrow pit removal and related activities:
- (16) All trees, brush, stumps and debris resulting from clearing, stripping and pit operation shall be burned or buried at ten-acre intervals and at the cessation of pit operations.

- (17) At the nonworking face of the pit, banks shall be maintained at a slope not to exceed 2:1 except at the cessation of the extraction activities, which shall be 3:1.
- (18) The tops of all banks shall be rounded to conform to surrounding topography.
- (19) Upon depletion of useful borrow in any pit, or any face or portion thereof, the depleted portion shall be stabilized, by revegetation, shaping or other soil erosion control methods, sufficient to prevent erosion of the pit walls and floor. Within 20 days of written notice of cessation of the operation of the pit, the County Highway Engineer shall inspect the pit, or any face or portion thereof, to determine areas of depletion, if any, and shall report his findings to the Planning Commission in writing. Within 10 working days of receipt of a report indicating depletion of useful borrow material, the Planning Commission shall order revegetation as follows
- (20) Revegetation shall take place within six (6) months of depletion or cessation of borrow pit and related activities.
- (21) The type, quantity and manner of placement of soil erosion prevention methods shall conform to the Minnesota Department of Transportation Standard Specifications for Highway Construction or to the technical standards and specifications or soil erosion control of the Pine County Soil and Water Conservation District
- (22) Twenty days prior to cessation of the operation, the applicant shall provide the Zoning Administrator with a reclamation plan detailing:
 - (A) Concurrent reclamation activities undertaken while the pit was in operation including stockpiling, revegetation and shaping;
 - (B) Those reclamation activities remaining to be done to fulfill the terms of this Ordinance
 - (C) Upon cessation of the operation, all equipment shall be removed from the pit site within six months.
 - (D) All excavation, removal and processing of earth material and the extent and limits thereof, together with operational time limits, site preparation, development, operation and restoration, and all activities related to site preparation, development, operation and restoration, shall be in accordance with the written application and permit. Signature of the applicant on the permit application shall be deemed consent of the contractor and property owner to all requirements set forth in this Article, including any standards for screening, access road arrangement, site restoration, etc., as may be specified in the permit by the Planning Commission. As a guarantee of performance, and to insure that the property is and

shall be left in the final condition desired, and as a prerequisite to issuance of the permit, the applicant, except when it is a division or agency of government, shall give proof that all taxes and assessments against the property which are due and payable have been paid, and shall execute and file with the Planning Commission a letter of credit or cashiers check or cash deposit approved by the Town Attorney. Such letter of credit shall be executed by a corporate surety authorized to transact business in the State of Minnesota, in an amount approved by the Planning Commission within limits set by the Town Board, conditioned upon the due and faithful performance of the principal(s) named in such letter of credit of all requirements pertaining to pit excavation, shaping, screening, drainage, debris, disposal, entrance construction, access barriers and site restoration, and to indemnify the Town of Windemere against any damage resulting from issuance of said permit. In determining the amount of each bond, the Planning Commission shall consider the nature and extent of the proposed extraction, removal of processing, required screening, drainage, restoration, etc. and fix an amount which will, as nearly as can be estimated, cover the costs of performing the requirements of, the permit in the event of default by the permittee. The Planning Commission shall be authorized to release or collect on the bond as follows:

- (23) The letter of credit shall remain in full force and effect until the Planning Commission has issued a Certificate of Compliance certifying to the fact that all provisions and conditions of the permit have been fully complied with.
- (24) Upon expiration of the permit, or upon earlier receipt of a written notice of cessation of the operation and request for a compliance inspection, the Planning Commission shall within thirty (30) days make an inspection of the site to determine compliance with the permit.
- (25) Upon completion of inspection, the Planning Commission shall issue Certificate of Compliance and release the letter of credit or withhold some portion to ensure full completion of restoration including final revegetation has been established.
- (26) If the permittee does not perform all work ordered by the Planning Commission within the ordered time limit, the Town may contract for or perform all necessary work to bring the site into compliance with the permit, and may assess the costs of such work against the letter of credit.

(27) If immediate vegetative restoration is prohibited by this Ordinance, the Planning Commission shall initially inspect for and order compliance with all required work other than vegetative restoration. The Planning Commission shall then make a separate inspection within 30 days of the date vegetative restoration was to have been completed and follow the same procedure as specified above to order or obtain compliance with the permit. The Planning Commission shall retain the full letter of credit or any remaining portion thereof until vegetative restoration has been properly completed.

(28) Mining of metallic minerals and peat, as defined by Minnesota Statutes, Sections 93.44 to 93.51. Mining of metallic minerals and peat shall be a permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

11.3 Livestock and Feedlots.

11.3.1 The raising of farm poultry and domestic farm animals is permitted within the A-1 Agriculture district on parcels of five (5) or more contiguous acres under one owner. Where permitted the following restrictions on livestock shall apply:

- (1) Density: Within the A-1 District, one (1.0) animal unit or its equivalent is allowed per two (2) grazable acres.
- (2) Grazable Acres. Grazable acres shall be defined as open, non-treed acreage currently providing enough pasture or other agricultural crops capable of supporting summer grazing at a density of one (1) animal unit or its equivalent, per two (2) acres.
- (3) The keeping of more than 50.0 animal units or domestic farm animals at a greater density allowed by this section shall require a conditional use permit for a feedlot see Section 10.2.

11.3.2 Rural agricultural operations of more than 50.0 animal units or commercial livestock pen feeding (feedlots) must receive a Minnesota Pollution Control Agency Feedlot Permit and conditional use permit from the Town Board. No feedlot may exceed 1,000 animal units nor may be considered a "confined animal feeding operation" as defined by the United States Environmental Protection Agency.

- (1) Commercial feeding operations shall not include the feeding of garbage to swine or other animals.

- (2) No manure or livestock waste shall be deposited, stored, kept or allowed to remain in or upon any storage site or feedlot without reasonable safeguards adequate to prevent the escape or movement of such manure or waste or a solution thereof from the site which may result in pollution of any surface, groundwater or cause any health hazard.
- (3) All regulations imposed by the Minnesota Pollution Control Agency relating to keeping livestock shall be adhered to, and such regulations shall be considered the minimum safeguards necessary to prevent pollution of surface, ground water or cause or create any health hazard. New livestock feedlots, poultry lots and other animal lots are prohibited within the following areas:
 - (A) Within one thousand (1,000) feet of the normal high water mark of any lake, pond or flowage; or within three hundred (300) feet of a river or stream.
 - (B) Within a floodway.
 - (C) Within one thousand (1,000) feet to the boundary of a public park.
 - (D) Within one-half (1/2) mile of the nearest point to a concentration of ten (10) or more private non-farm residences.
 - (E) On soils with seasonal water table within five feet or less from the surface or on soils shallow to bedrock or within 1,000 feet of a sink hole.

11.3.3

Limited Keeping of Chickens.

- (1) Limited Keeping of Chickens. The limited keeping of up to 5 (five) hen chickens as an accessory use to a single family residence is permitted on parcels of 1 (one) acre or more in area subject to the following regulations:
 - (A) Hen chickens are permitted and roosters are prohibited.
 - (B) Chickens shall be kept in a confined area on the property. Chickens shall be kept on the property at all times and not allowed to wander off the property.
 - (C) Chickens shall not be housed in the dwelling or attached garage.
 - (D) If the Zoning Ordinance allows accessory structures less than 120 square feet in area may be placed on the property and is exempt from the Town's accessory structure regulations. Such a structure may be used to house chickens and there must be a minimum of two-and-one-half (2 ½) square feet of floor area per chicken. The setback for such structure shall be a minimum 50 feet to the side and rear lot lines. No such structure is permitted in the front yard.

Any structure greater than 120 square feet shall adhere to the Town's accessory structure regulations.

- (E) Chickens may be slaughtered on the property in locations that are not visible to the public or adjacent properties.
- (F) All food for the chickens shall be kept in rodent-proof containers stored within a building.
- (G) Chicken droppings shall be managed in such a way so as not to become a health concern or an odor nuisance.

11.4 **Exterior Storage.** All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall comply with the requirements of any applicable federal or state law or regulation and have documents from those offices stating that the use is in compliance. Fuel tanks may be permitted as an accessory use only and shall be subject to accessory setback regulations. All existing, above-ground liquid storage tanks shall comply with the requirements of Minnesota's State Fire Marshal's Office and MPCA.

11.5 **Fencing.** Fences shall comply with all of the following:

- (1) All fences shall require a fence permit from the Town unless otherwise specified in this section.
- (2) All fences located in recorded easements are the sole risk of the property owner; and the cost of any removal, relocation, or placement of said structures caused by any activity permitted in said easements is the sole responsibility of the property owner.
- (3) Fence Height: Fences and walls in residential districts shall be subject to the following maximum heights:
 - (A) Six (6) feet in the rear or side yard.
 - (B) Forty-two (42) inches in the front yard.
 - (C) Forty-eight (48) inches in street side yards of corner lots that abut another front yard, provided that no structure shall interfere with sight distances for vehicles approaching intersections.
 - (D) Fences and walls in non-residential districts shall not exceed eight (8) feet in height. Along property lines adjacent to residential districts, the appropriate maximum fence height for residential districts shall apply.



- (4) No wall, fence or other structure shall be erected or altered, and no hedge, tree, shrub or other growth shall be maintained, which may cause danger to traffic on a road or public way by obscuring the view of those traveling on a public right-of-way.
- (5) All posts and supporting structures of a fence shall face inward towards the property on which the fence is constructed. All posts and supporting structures shall be located entirely upon the fence owner's property
- (6) No barbed wire fences may be constructed within residential districts or on areas immediately adjacent to a residential property without the written consent of the bordering landowner.
- (7) Materials And Construction: Every fence shall be constructed in a workmanlike manner of substantial materials widely accepted in the fencing industry and reasonably suited for the purpose for which the fence is intended.
- (8) The side of any fence considered to be its "face" (i.e., the finished side having no structural supports) shall face the abutting property or road right-of-way.
- (9) No plywood boards, canvas, plastic sheeting, metal sheeting or similar materials shall be used for any fence construction.
- (10) No fence shall obstruct natural drainage. No fence shall be placed within an easement that obstructs or impedes the free flow of surface water from, or in any drainage easements. If a fence is constructed within the public right-of-way and it is required to be removed, the Township shall not be required to pay compensation for any such fence.
- (11) Agricultural fences are subject to the Minnesota Fence Law contained in Minnesota Statutes, Chapter 344.
- (12) Fences built behind the front building line shall be located no closer than eighteen (18) inches from the property line.

- (13) A certificate of survey shall be required for all fences (except hedges and plantings) to be constructed on or within ten (10) feet of the property line or of an adjacent public right-of-way in the case of lots with a property line as the centerline of the road.
- (14) **Temporary Or Seasonal Fences:** Temporary or seasonal fences (such as snow fences, erosion control fences, fences to protect newly seeded areas and the like) are allowed without a permit provided:
 - (A) No such fence may be left in place for more than six (6) months without written Town approval; and
 - (B) Any such fence must be removed within fifteen (15) days of the Town providing written notice to the landowner that the town has determined the fence no longer serves its originally intended temporary or seasonal purpose.

11.6 **Recreational Vehicles and Camping Grounds.**

11.6.1 **General Requirements.**

- (1) All recreational vehicles (RV) must be designated to operate on roads without a special permit and must have a current license. These provisions apply to all recreational vehicles, including fish houses (wheel houses) that are licensed as such.
- (2) RV's shall meet all principal structure setback requirements for the zoning district they are located in.
- (3) Any occupied RV, including one that is intermittently occupied between April 1 and November 1 of any calendar year shall meet sewage disposal requirements in accordance with Pine County sewage standards and standards of this ordinance.
- (4) Any occupied RV, including one that is intermittently occupied between April 1 and November 1 of any calendar year shall obtain a permit from the Town or is in violation of this ordinance.
- (5) Any property not in the Shoreland Overlay District may have up to two RVs on the property.
- (6).

(1)

11.6.2 **Temporary Buildings.** Hereafter no person shall erect, alter the outside dimensions, or move any building or *part* thereof without

first securing a permit. Licensed fish houses or “wheelhouses” may be temporarily parked in shoreland areas with a permit, provided setback requirements are met.

11.6.3 **Existing Campgrounds.** The limitations imposed by this Section on the number of recreational vehicles that may be located on a property does not apply to lawfully established campgrounds that exist as of the effective date of this Ordinance.

11.7 **Building Relocation.** Each relocation of a building, except those being relocated to the same parcel of property, shall require a zoning permit from the Town and all such buildings shall conform with and be situated in a properly zoned area in accordance with all of the provisions of this Ordinance.

11.8 **Home Occupations.**

11.8.1 **Home Occupation I.** A Home Occupation I shall comply with the requirements and limitations of this section.

- (1) The use must be conducted solely by those residing on the premises, entirely within the dwelling.
- (2) The home occupation shall not include the employment of any other person not residing on the premises.
- (3) The home occupation shall not include any over-the-counter retail businesses, manufacturing businesses, or repair shops that require the exterior parking or storage of automobiles or machinery.
- (4) The home occupation shall not require external major alterations or involve construction features not customarily found in or which are normally accessory to dwellings, except as are necessary for safety purposes.
- (5) Exterior storage of commodities, stores, equipment, or materials associated with the home occupation is prohibited.
- (6) The area devoted to the home occupation shall not exceed 25% of the floor area of the dwelling.

11.8.2 **Home Occupation II.** A conditional use permit is required for any home occupation not falling into the definition of Home Occupation I." A Home Occupation II shall comply with the requirements and limitations of this section.

- (1) May employ persons not residing on the parcel, provided all parking associated with all employees and customers can lawfully be accommodated on the parcel.
- (2) No external operation of equipment is permitted.
- (3) Shall not utilize more than 10% of the lot area.
- (4) No exterior storage of commodities, equipment, or materials is permitted.
- (5) May have limited outdoor parking of vehicles associated with the occupation, provided they are maintained in an immediately operable condition.
- (6) One identification sign for the home occupation use is allowed, but shall not exceed 4 square feet in area. All signs for home occupation shall be set back a minimum distance of not less than 15 feet from the right-of-way. If lighted, no home occupation sign shall be illuminated between the hours of 9:00 p.m. and 7:00 a.m.

11.9 **Signs.**

11.9.1 **General Standards.**

- (1) **Compliance.** Any sign hereafter erected or maintained shall conform to the provisions of this Section.
- (2) **Purpose and Intent.** The purpose and intent of this Section is to maintain, enhance and improve the aesthetic environment of the Town by preventing visual clutter that is harmful to the appearance of the community; improve the visual appearance of the Town while providing for effective means of communication, consistent with constitutional guarantees and the Town's goals of public safety and aesthetics; and to provide for the safety of the traveling public by limiting distractions, hazards and obstructions. This will be accomplished by the regulation of the display, erection and use of signs. No part of this Section shall be construed to favor commercial speech over non-commercial speech. To the extent that any provision of this Section is ambiguous, the provision shall be interpreted not to regulate on the basis of speech content and the interpretation resulting in the least restriction on the content of the sign's message shall prevail.
- (3) **Message Substitution.** For every type of sign permitted by this Section, any

non-commercial message may be legally substituted.

(4) **Use and Location Regulations.** The following types of signs, and no others, shall be permitted. All signs must be either on-premise signs or signs that have a non-commercial message.

- (A) In all zoning districts, official traffic and road signs placed by the applicable road authority. A sign permit is not required.
- (B) In commercial zoning districts, one directional/informational sign not to exceed nine square feet in sign area.
- (C) In all zoning districts, one non-illuminated sign for each street frontage of a construction project, not to exceed 2 square feet in sign area. Such signs may be erected 60 days prior to the beginning of construction and must be removed within 30 days following completion of construction.
- (D) In all zoning districts, one sign with a commercial message displayed in the yard of a property that is for lease or for sale that does not exceed six square feet in sign area. The sign must be removed within 15 days after the closing on the sale or lease of the property.
- (E) In all zoning districts, any number of signs that have a non-commercial message that are posted from August 1st in any general election until 10 days following the general election and 13 weeks prior to any special election until 10 days following the special election.
- (F) In all zoning districts, one identification sign per building entrance.
- (G) In residential and agricultural zoning districts, one freestanding sign not to exceed 32 square feet in sign area for non-residential and non-agricultural uses.
- (H) In residential zoning districts, one subdivision identification sign per street frontage not to exceed 48 square feet in sign area at each street frontage. A zoning permit is required for a subdivision sign.
- (I) In commercial zoning districts, one freestanding sign or wall sign per street frontage. The signs must not exceed 50 square feet in total sign area and be less than 25 feet in height. The signs must be positioned in such a way that they take into account traffic, other road signs, and viewing and sight lines from neighboring properties. A zoning permit is required for a commercial sign. Larger or additional signs may be authorized by conditional use permit.

- (J) In all zoning districts, window signs, barn quilts, banners, and pennants are permitted.
- (K) Temporary special events signs and decorations for special events, grand openings or holidays. Such signs and decorations may be erected 45 days prior to the event or holiday and must be removed within five days following the event or holiday.
- (L) One sign smaller than five square feet in sign area may be posted on any parcel of land, except that such sign must display only non-commercial messages and may not be illuminated.

11.9.2 Nonconforming Signs And Uses:

- (1) Nonconforming Signs: A nonconforming sign lawfully existing upon the effective date of this chapter shall be regulated in accordance with Article VIII.

11.10 **On/Off-Street Parking and Loading.** Off-street automobile parking or storage space shall be provided on every lot on which any new structures are hereafter established. Such space shall be provided with vehicular access to a public street or private drive if approved by the Town Board, and such space shall be provided with a suitable area for vehicle turnaround so as to allow vehicles safe entry onto the roadway, and such space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. When a structure is enlarged, the required off-street parking space shall be provided for the enlarged portion. If a use is changed to a different use requiring more parking stalls, the additional amount of parking area shall be provided. In addition, the following minimum standards shall apply:

(1) General Performance Standards.

- (A) Under no circumstances shall required parking facilities accessory to residential structures be used for the parking of automobiles belonging to the employees, owners, tenants, or customers of nearby business or manufacturing facilities.
- (B) Required off-street parking space shall not be utilized for open storage of goods or for the storage of vehicles that are inoperable or junk vehicles or for sale or for rent.

(C) In no event shall the combination of off-street parking space, structures of any type, driveways, or other features result in impervious surface of more than seventy-five percent (75%) of the parcel.

(2) **Location Requirements.** All off-street parking facilities required herein shall be located in respect to the following:

(A) Spaces accessory to dwelling units must be located on the same lot as the principal use served.

(B) There shall be no off-street parking space within fifteen (15) feet of any road right-of-way.

(C) No off-street parking area containing more than four (4) parking spaces shall be located closer than thirty (30) feet from an adjacent lot zoned or used for residential purposes.

(D) Commercial parking shall be at least fifteen (15) feet from a property line.

(3) **Design Requirements.**

(A) Each parking space shall contain a minimum area of not less than three hundred (300) square feet, including access drives, a width of not less than nine (9) feet and a length of not less than twenty (20) feet.

(B) Parking areas shall be designed so as to provide adequate means of access to public roads. Such driveway access shall not exceed thirty (30) feet in width. Driveway access serving commercial uses shall be a minimum of twenty-four (24) feet in width.

(C) All of the area intended to be utilized for parking space and driveways shall be surfaced with a material which controls erosion and drainage. Parking areas for less than three (3) vehicles shall be exempt. Plans for surfacing and drainage shall be subject to approval of the Town Board or an engineer retained by the Town.

(D) All lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from the adjoining property and right-of-way.

(E) All off-street parking spaces shall have access from driveways and not directly off the public street.

(4) **Loading Spaces.** Space for off-street loading and unloading of vehicles shall be provided for every building used or designed for commercial, industrial, manufacturing or warehousing purposes. One such space shall be provided for every ten thousand (10,000) square feet of floor area or fraction thereof, and such spaces shall be a minimum of ten (10) feet in width, thirty-five (35) feet in length and fourteen (14) feet in height, plus necessary maneuvering space.

(5) Computing Requirements. In computing the number of such required parking spaces, the following rules shall govern:

(A) Floor space shall mean the gross floor area of the specific use.

(B) Where fractional spaces result, the parking spaces required shall be construed to the nearest whole number.

(C) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of a similar nature, as determined by the Town Board.

(6) Required Number of On-Site Parking Spaces. On-site parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided on the premises of such use. The chart below indicates the minimum number of required parking spaces for each use:

TYPE OF USE	NUMBER OF REQUIRED ON-SITE PARKING SPACES
Single-Family Dwelling Unit	Two (2) spaces
Duplex Dwelling Unit	Four (4) spaces
Multi-Family Dwelling Unit	One and one-half (1 ½) spaces per unit
Houses of Worship, Community Buildings, theaters, and stadiums	One (1) space for each five (5) seats, based upon design capacity
Stores and other retail businesses	One (1) parking space for each one hundred (100) square feet of total floor area, and one (1) parking space for each employee.

TYPE OF USE	NUMBER OF REQUIRED ON-SITE PARKING SPACES
Tourist Accommodations	One (1) parking space for each room, unit or campsite and one (1) parking space for each nonresident employee.
Office buildings	One (1) parking space for each two hundred (200) square feet of office floor area.
Restaurants, supper clubs, taverns and bars	One (1) parking space for each five (5) seats, based on maximum seating capacity; and one parking space for each employee.

11.11 **Private Drives** Each lot on which a structure is to be erected, altered in its exterior dimensions or moved, shall have frontage on and access to an improved public road, except as follows:

- (1) Such lots to be used for a seasonal or recreational cabin may have alternate means of access, which shall be either a private drive, easement of record or by public water upon approval by the Town Board.
- (2) Such lots to be used for other single family residential structures may have permits issued for such use only after the lot owner has met the following criteria:
 - (A) The lot owner shall provide to the Zoning Administrator a copy of an easement of record across all lands between the lot in question and an improved public road, which easement shall be in perpetuity and transferable to the successors, heirs and assigns of the lot owner, and which easement shall provide to the lot owner the right of ingress and egress between the lot in question and an improved public road.
 - (B) The lot owner shall agree to comply with the road right-of-way setback of 30 feet for the placement of structures off the private easement.
- (3) For divisions of property containing more than two (2) parcels per forty not having frontage on, and access to an improved public road, see Subdivision of Land Title VII.
- (4) Private drives must have a minimum side yard setback of five (5) feet, unless adjoining property owners have a deeded agreement to a mutually shared driveway.

11.12 **Planned Unit Development (PUD)** Planned unit residential, business, and industrial projects may include any developments having one or more principal uses or structures on a single parcel of ground or contiguous parcels. The PUD shall consist of a harmonious selection of uses and grouping of buildings, parking areas, circulation, and open spaces, and shall be designed as an integrated unit. The plan will be permitted if the PUD meets the requirements of this ordinance. After the development plan is approved, all development, construction, and use shall be in accordance with that plan unless a new planned unit development plan is submitted and approved by the Town Board as required by this ordinance. Any development contrary to the approved development plan shall constitute a violation of this ordinance.

11.12.1 **Suitability.** The Town shall consider the following criteria when determining if a property is suitable for a PUD:

- (1) Properties adjacent to the development plan shall not be adversely affected.
- (2) The average density of (dwelling) units per acre shall not be higher than that permitted in the district in which the plan is located.
- (3) The use of the land shall not differ substantially from the uses permitted in the district in which the plan is located, except that limited business facilities intended to serve only the residents of the PUD project and fully integrated into design of the project may be considered in residential districts, multiple-family (dwelling), business, and industrial districts.

Without limiting the flexibility of zoning and design standards of a planned unit development, as defined, the development plan shall in all other respects, be consistent with the purposes and procedural requirements of the zoning ordinance.

11.12.2 Concept Stage

- (1) General information required for application:
 - (A) The landowner's name and address and his interest in the subject property.
 - (B) The applicant's name and address if different from the landowner.
 - (C) The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer, and surveyor.
 - (D) Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy, and contractual interests held in or affecting the subject property and including an up-to-date title opinion and such other evidence as the Town

Attorney may require to show the status of title or control of the subject property.

- (E) Present status:
 - a. The address and legal description of the subject property.
 - b. The existing zoning classification and present use of the subject property and all lands within one thousand (1,000) feet of the subject property.
 - c. A map depicting the existing development of the subject property and all land within one thousand (1,000) feet thereof and showing the precise location of existing streets, property lines, easements, watermains, and storm and sanitary sewers with invert elevations on and within one hundred (100) feet of the subject property.
- (F) A written statement generally describing the proposed PUD and the market which it is intended to serve and its demand showing its relationship to the Town's Comprehensive Plan and how the proposed PUD is to be designed, arranged, and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the Town.
- (G) Site Conditions: Graphic reproductions of the existing site conditions at a scale of one inch (1") to one hundred feet (100'). All of the graphics should be the same scale. as the final plan to allow easy cross reference. The use of overlays is recommended for clear reference.
 - a. Contours – minimum two (2) foot intervals.
 - b. Location, type, and extent of tree cover.
 - c. Slope analysis.
 - d. Location and extent of water bodies, wetlands, streams, and flood-plains within three hundred (300) feet of the subject property.
 - e. Significant rock outcroppings.
 - f. Existing drainage patterns.
 - g. Vistas and significant views.
 - h. Soil conditions as they affect development.
 - i. Existing impervious surface coverage calculations.
- (H) Schematic drawing of the proposed development concept including, but not limited to, the general location of major circulation elements, public and common open space, residential and other land uses.
- (I) A statement of the estimated total number of dwelling units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:
 - a. Area devoted to residential uses.
 - b. Area devoted to residential use by building type.
 - c. Area devoted to office, commercial, or industrial uses.
 - d. Area devoted to common open space.

- e. Area devoted to public open space.
- f. Approximate area devoted to streets
- g. Approximate area devoted to a number of off-street parking and loading spaces and related access.
- h. Approximate area and floor area devoted to commercial uses.
- i. Approximate area and floor area devoted to industrial or office use.
- (J) When the PUD is to be constructed in stages during a time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and dwelling units to be provided or construction during each such stage and the overall chronology of development to be followed from stage to stage.
- (K) When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities, shall be submitted. If it is proposed that such open space be owned and/or maintained by an entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.
- (L) General intents of any restrictive covenants or Homeowners Association that are to be recorded with respect to property included in the proposed PUD.
- (M) Schematic utilities plans indicating placement of water and sanitary and storm sewers.
- (N) The Planning Commission may excuse an applicant from submitting any specific item of information or document required in this stage which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.
- (O) The Planning Commission may require the submission of any additional information or documentation which it may find necessary or appropriate to adequately to full consideration of the proposed PUD. or any aspect or state thereof.

11.12.3 **Development Stage.** Development Stage submissions should depict and outline the proposed implementation of the general concept stage for the PUD. Information from the general concept stage may be included for background and to provide a basis for the submitted plan. The Development Stage submission shall include, but not be limited to:

- (1) Zoning classification required for Development Stage submission and any other public decisions necessary for implementation of the proposed plan.

- (2) Two (2) 2' x 3' and two (2) 11" x 17" sets of preliminary plans and an electronic copy, drawn to a scale of not less than one (1) inch equals one hundred (100) feet (or scale requested by the Zoning Administrator) containing at least the following information:
 - (A) Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in the County where the subject property is situated).
 - (B) Property boundary lines and dimensions of the property and any significant topographical or physical features of the property.
 - (C) The location, size, use, and arrangement, including height in stories and feet, and total square feet of ground area coverage and floor area of proposed buildings, including mobile homes and existing buildings which will remain, if any.
 - (D) Location, dimensions, and number of all driveways, entrances, curb cuts, parking stalls, loading spaces, access aisles, and all other circulation elements, including bike and pedestrian; and the total site cover-age of all circulation elements.
 - (E) Location, designation, and total area of all common open space and public park land if applicable.
 - (F) Location, designation, and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites, and recreational facilities.
 - (G) Proposed lots and blocks, if any, and numbering system.
 - (H) The location, use, and size of structures, and other land uses on adjacent properties.
 - (I) Detailed sketches and provisions of proposed landscaping.
 - (J) Proposed impervious surface calculations.
 - (K) General grading and drainage plans for the developed PUD.
 - (L) Any other information that may have been required by the Planning Commission or Town Board in conjunction with the approval of the general concept plan.
- (3) An accurate legal description of the entire area within the PUD for which final development approval is sought.
- (4) A tabulation indicating the number of residential dwelling units, including anticipated by number of bedrooms and expected population/housing profile.
- (5) A tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (i.e. drug store, dry cleaning, supermarket).
- (6) Preliminary architectural plans indicating use, floor plan, elevations, and exterior wall finishes of proposed buildings, including mobile homes.
- (7) A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, right-of-ways, utility lines and facilities, lots, blocks, public and common open space, general landscaping plan, structures, including mobile homes, and uses. Easements shall be a minimum of 10' in width.

- (8) Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation. The plan should clearly reflect all site grading activity and the site treatment and its conformance with the approved concept plan.
- (9) Sketch plan, preliminary, and final plat prepared in accordance with the Town Subdivision Ordinance.
- (10) A Soil Erosion Control Plan acceptable to watershed districts, Minnesota Department of Natural Resources, Soil Conservation Service, the Town Engineer, and/or any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures.
- (11) A statement summarizing all changes which have been made in any document, plan data, or information previously submitted together with revised copies of any such document, plan, or data.
- (12) Such other and further information as the Planning Commission, Zoning Administrator, or Town Board shall find necessary for to a full consideration of the entire proposed PUD or any future stage thereof.
- (13) The Planning Commission may excuse an applicant from submitting any specific item of information or document required in this Section which it finds to be unnecessary to the consideration of the specific proposal for the PUD approval.

11.12.4 **Final Stage.** After approval of a general concept plan for the PUD and approval of the Development Plan, a section of the proposed PUD, the applicant will submit the following material for review by Town staff prior to issuance of a zoning permit.

Final Plan approval can be in phases or include the entire PUD project:

- (1) Proof of recording any easements and restrictive covenants or Homeowner Association prior to the sale of any land or dwelling unit within the PUD and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility.
- (2) All certificates, seals, and signatures required for the dedication of land and recording of documents.
- (3) Final architectural working drawings of all structures.
- (4) Final engineering plans and specifications for streets, utilities, and other public improvements, together with a Developer Agreement for the installation of such improvements and financial guarantees for the completion of such improvements.
- (5) Any other plans, agreements, or specifications necessary for Town staff to review the proposed construction.
- (6) The applicant shall have secured final plan review approval by the Township Board of Supervisors within one (1) year following the date of approval of the preliminary plan review. If application for final plan review is not received within one (1) year, the preliminary plan review will be considered abandoned and a new application for

preliminary plan review must be submitted. The Township Board of Supervisors shall make a final determination on approval of the final plan review.

- (7) **Fees.** The required application fee shall accompany applications for sketch plan, preliminary plan and final plan. The applicant shall pay fees as set forth by the Township Board of Supervisors.
- (8) **Public Hearing Notices.** All applications for review of a PUD proposal, except sketch plan review, require a public hearing and shall be noticed and processed according to the standards and procedures of this Township
- (9) **Developers Agreements.** A developer's agreement shall be executed reflecting all terms and conditions of the approved PUD plans and financial requirements.

11.12.5 Criteria for Granting a PUD:

- (1) The Planning Commission may recommend, and the Township Board of Supervisors may act to approve or deny, a preliminary or final plan for a PUD in any district that allows a PUD as a conditional use. The Planning Commission, in making a recommendation, and the Township Board of Supervisors, in acting upon a plan, shall consider the following factors; however, nothing herein shall be meant to guarantee approval of a PUD:
 - (A) The consistency of the proposed PUD with the Township's comprehensive plan;
 - (B) The proposed use's compliance with the standards and criteria of the zoning ordinance and subdivision regulations;
 - (C) The extent to which the proposed PUD is designed to form a desirable and unified environment within its own boundaries in terms of relationship of structures, patterns of circulation, visual clutter and sufficiency of drainage utilities;
 - (D) The extent to which the proposed use will be compatible with present and planned uses in the surrounding area;
 - (E) The impact of the proposed uses on the health, safety and general welfare of the occupants of the surrounding area;
 - (F) The burden or impact created by the PUD on parks, schools, streets and other public facilities and utilities;
 - (G) The sufficiency of each phase of the PUD to ensure its construction and operation is feasible without dependence upon any subsequent phase;
 - (H) The impact of the PUD on environmental quality, property values, scenic views and reasonable enjoyment of the surrounding area; and
 - (I) That any exceptions to the Township Ordinance, Policy or Regulations are justified by the design or development of the proposed use.

11.12.6 Final Plan Revisions:

- (1) Minor changes in location, placement and heights of buildings or structures may be authorized by the Township if required by engineering or other circumstances not foreseen at the time the final plan review was approved.
- (2) Approval by the Township Board of Supervisors shall be required for changes such as rearrangement of lots, blocks and building tracks or any other significant changes as determined by the Township. These changes shall be consistent with the purpose and intent of the approved final plan review.

11.12.7 **Method of Amending a PUD:** Any desired change involving density, use, building type, enlargement or intensification of the use not specifically allowed by a particular PUD, or any request for the Variance from the specific terms of the previously passed PUD, shall require that an application be filed for an amendment and all procedures shall then apply as if a new plan was applied for.

11.13 **Towers.**

- (1) Purpose. The purpose of this section is to accommodate the communication needs of residents and businesses while protecting public health, safety and general welfare of the community. The Town finds that these regulations are necessary in order to:
 - (A) Facilitate the provision of wireless communication services to residents and businesses;
 - (B) Minimize adverse visual effects of towers through careful design and site standards;
 - (C) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and
 - (D) Maximize the use of existing and approved towers and buildings to accommodate new wireless communication antennas in order to reduce the number of towers needed to serve the community.
- (2) Permitted Towers. The construction and maintenance of an amateur radio tower, residential television tower or exempted dish is a permitted use within any zoning district.
- (3) Towers Requiring a Conditional Use Permit. The construction and maintenance of a Commercial tower or a Multi User tower shall be permitted within all zoning

districts, pursuant to a conditional use permit granted in accordance with this section.

(4) General Performance Standards. All towers shall comply with the performance standards set out in this Subsection.

(A) Multi User Requirements. A proposal for a new commercial wireless communication tower shall not be approved unless the Town Board finds that the telecommunications equipment plans for the proposed tower cannot be accommodated by an existing or approved tower or building within a six-mile search radius of the proposed tower due to one or more of the following reasons:

- a. The planned equipment would exceed the structural capacity of the existing or approved tower, as documented by a licensed engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
- b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost.
- c. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
- d. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

Any proposed commercial wireless telecommunication service tower shall be designed (structurally and electronically) in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users. The tower must be designed to allow for future re-arrangement of antennas upon the tower and to accept antennas mounted at various heights.

- (B) Tower and Antenna Design Requirement. Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. Commercial wireless telecommunication service towers shall be of a monopole design unless the Planning Commission determines that an alternative design would better blend in the surrounding environment or allow for greater future multi-use.
- (C) Landscaping and Screening. The Planning Commission may establish, as a condition of approval of a commercial tower, reasonable requirements relating to landscaping and screening to improve the aesthetic appearance of the base of the tower and accessory buildings. Existing on-site vegetation should be preserved to the maximum extent possible.
- (D) Fencing. All commercial towers and accessory buildings shall be enclosed within a galvanized chain link fence with a locked gate to prevent unauthorized entry. The fence shall be at least six feet, but not greater than ten feet, in height. Any fence less than eight feet in height shall be constructed with at least three strands of barb wire strung along the top of the fence.

(5) Construction Standards. All towers shall be constructed and maintained in accordance with the Electronic Industry Association Standards and all applicable building codes.

- (A) Towers shall be monopoles, self-supporting or guyed towers
- (B) Minimum Spacing. Minimum spacing between commercial tower locations is one-half mile.
- (C) Conditional Use Application Requirements. In addition to the information generally required to accompany a request for a conditional use permit as found in this Ordinance, applications for towers shall include the following supplemental information:
 - a. A report from a qualified and licensed professional engineer which:
 1. Describes the tower height and design, including a cross section and elevation.

- 2. Documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distance between antennas.
- 3. Describes the towers capacity, including the number and type of antennas it can accommodate.
- 4. Describes the actions the applicant will take to avoid interference with established public safety communication.
- 5. Includes the engineer's stamp and registration number.
- 6. Includes other information necessary to evaluate the request.

- b. Letter of intent committing the tower owner, and successors, to allow the shared use of the tower if any additional user agrees in writing to meet reasonable terms and conditions for shared use.
- c. Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration.
- d. A report from a licensed engineer which demonstrates the tower compliance with all applicable structural and electrical standards.
- e. A site plan showing the boundaries of the property on which the tower is located, adjacent land uses, the location of the tower and any accessory buildings within the property, distance setbacks from property lines for the tower and accessory buildings, fence locations, and proposed landscaping or screening.
- f. A letter of credit or other form of security approved by the Town Attorney, posted for the purpose of reimbursing the Town Board for cost of removal of the tower in the event its use is discontinued.
- g. All towers require the granting of a conditional use permit by Windemere Township after completion of the application requirements of this Ordinance. If a conditional use permit is granted, a zoning (land use) permit is required for the tower and supporting facilities.

(6) **Building Mounted Antennas.** The placement of a wireless telecommunication antennas on roofs or walls of existing buildings or structures shall be approved by

the Town Board as a conditional use provided that the antennas meet the requirements of this section, after submittal of a final site and building plan, and a report prepared by a licensed and qualified professional engineer indicating the existing building or structures suitability to accept the antenna as well as a proposed method for affixing the antenna to the structure. Complete details of all fixtures, couplings, and the precise point of attachment shall be indicated.

- (7) **Amateur Radio and Residential Television Towers.** Amateur Radio Towers, Residential Television Towers and antennas are subject to the standards and conditions established by this section, except for those specific to commercial towers. The Town Board may waive strict compliance with this section if it finds that the stated purpose of this section is met.
- (8) **Tower Setbacks.** All towers shall conform with the following minimum setback requirements.
 - (A) **Property Lines.** All towers shall be set back from property lines a minimum of 125% of the height of the tower, including all antennas and attachments. The height of the tower shall be measured from the average grade of the property on which it is located or the actual tower height, whichever is greater.
 - (B) **Accessory Buildings.** Buildings accessory to a tower shall comply with the setback requirements of the zone in which the tower is located.
 - (C) **Schools and Dwellings.** Commercial towers shall be set back a minimum of 500 feet from schools or structures used as dwellings and a minimum of 300 feet from property zoned for residential use. A change in the use of the property adjacent to an existing commercial tower does not render the tower a nonconforming use, if the tower was in conformance with this section when constructed.
 - (D) **Alterations.** A tower setback may be reduced or varied, at the sole discretion of the Town Board, if the variance will facilitate the integration of the tower into an existing or proposed structure, such as a church steeple, light standards, power line support device or similar structure.
- (9) **Prohibitions.**
 - (A) **Tower Lighting.** A tower shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by

the Federal Aviation Administration or other state or federal authority for a particular tower. When incorporated into the design standards of the tower, light fixtures to illuminate ball fields, parking lots or similar areas may be attached to the tower.

- (B) **Signs and Advertising.** The use of any portion of a tower for signs other than a warning or equipment informational signs is prohibited.
- (C) **Interference of Public Safety Communications.** No new or existing telecommunication service shall interfere with public safety communications. All applications for a conditional use permit for new service shall be accompanied by an intermodulation study which provides the technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of a new service or change in existing service, telecommunication providers shall notify the Town Board at least 48 hours in advance of such changes and allow the Town Board to monitor interference levels during the testing process.

(10) **Abandoned or Unused Towers.** Abandoned, unused towers or portions of towers shall be removed as follows:

- (A) Timeline. All abandoned, unused towers, and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the Planning Commission. In the event the tower is not removed within 12 months of cessation of operations at the site, the tower and the associated facilities may be removed by the Town Board and the cost of removal assessed against the property.
- (B) Unused Portions. Any unused portions of towers above a manufactured connection shall be removed within six months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new conditional use permit.

11.14 Renewable Energy Systems.

- (1) Purpose. The purpose of this Section is to promote the health, safety, and general welfare of the citizens of the Town, and shall apply to the following:
 - (A) Solar energy systems ("SES") generating less than fifty (50) megawatts ("MW") of power. Solar energy systems with a rated capacity of fifty (50)

MW or greater shall be referred to the Minnesota Public Utilities Commission ("MN PUC") for approval and oversight.

Windemere Township finds that it is in the public's interest to allow localized small-scale renewable energy systems while balancing standards that protect the public's health, safety and general welfare, and will result in no adverse impact on nearby properties or natural resources. It is the intent of the Town to create standards for the reasonable capture and use of small scale renewable energy by households, businesses, and property owners. Wind to Energy Conversion Systems ("WECS") are not permitted.

This Section is enacted to establish renewable energy regulations for the unincorporated areas of the Township. This Section does not apply to lands owned or leased by the federal or state government.

(B) **Definitions.** For the purposes of this Section, the following terms shall have the meaning given them in this Section. Any other term not defined herein shall have the meaning given it in the most applicable Minnesota Statute or Rule, and if not defined therein, it shall have the meaning given it in common usage in the context in which it is used herein.

- a. **Array (Solar).** Any number of solar photovoltaic modules or panels connected together to provide a single electrical output.
- b. **Commercial Solar Energy System.** A Solar Energy System that is capable of generating less than fifty (50) MW of power and is designed to supply energy for off-site users or export to the wholesale market on the distribution grid.
- c. **County Ordinance.** The most current version of the Renewable Energy Ordinance of Pine County.
- d. **Ground Mounted Panels.** Freestanding solar panels mounted to the ground by use of racks, poles, or similar apparatus.
- e. **Non-commercial Solar Energy System.** A Solar Energy System that is capable of generating less than 50 MW of power and which is accessory to the principal land use and designed to supply energy for the principal use.
- f. **Photovoltaic System.** An active solar energy system that converts solar energy directly into electricity.
- g. **Public Conservation Lands.** Land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including

but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, Federal Wildlife Refuges and Waterfowl Production Areas. For the purposes of this section public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

- h. **Roof or Building Mounted Solar Energy System.** A solar energy system that is mounted to the roof or building using brackets, stands, or other apparatuses.
- i. **Solar Energy System (SES).** An active solar energy system that collects or stores solar energy and transforms solar energy into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, thermal, or chemical means.
- j. **Solar Farm.** A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the principal purpose of wholesale sales of generated electricity.
- k. **Solar Garden (also called a Community Solar Energy System).** A solar-energy system (photovoltaic array) that provides retail electric power or a financial proxy for retail power to multiple community members or businesses residing or located off site from the location of the solar energy system.
- l. **Transmission Line.** Those electrical power lines that carry voltages of at least 41,600 volts (41.6 kV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

(C) **Solar Energy Systems.**

- a. The requirements and standards in this Section govern Solar Energy Systems that are capable of generating less than fifty (50) MW of power. Large Energy Power Generated Plants ("LEPGP") capable of generating fifty (50) MW of power or more shall fall under the jurisdiction of the MN PUC.
- b. **General Standards.** All SES shall comply with the following standards:

1. All SES connecting in any way to the distribution or transmission system must obtain an interconnection agreement from the appropriate electric utility. Off-grid systems are exempt from this requirement.
2. Electric solar system components that are connected to a building electric system must have an Underwriters Laboratory (UL) listing.
3. All solar installations must comply with the Minnesota and National Electric Code.
4. All Roof or Building Mounted solar systems shall comply with the Minnesota Building Code.
5. Installation of a solar system shall not constitute a right to sunlight from any adjoining property, nor does the Township assure access to sunlight.
6. Any lighting shall be shielded and downcast such that the light does not spill onto adjacent properties.
7. Maintenance – Routine maintenance must be performed on all solar panels and the ground must be kept free of debris from the solar panels at all times. If a solar panel is broken, it must be removed within thirty (30) days. The Township reserves the right to request an inspection of the SES for compliance on any issue that may arise. The SES operator must grant access to the site as requested for inspection.

(D) **Non-Commercial SES.**

- a. **Permitting.** Non-commercial SES are considered permitted uses in all districts with an approved zoning permit. This ordinance allows for and regulates the following non-commercial types of SES:
 1. Roof or Building Mounted SES; and
 2. Ground Mounted SES.

b. **Regulation.** Non-commercial SES shall be regulated as follows:

1. **Roof or Building Mounted SES:**
 - a) Shall not project more than four (4) feet above the plane of the roof not to exceed 35 feet nor be located closer than two (2) feet from the outer edge of the roof top.
 - b) Shall not occupy more eighty (80) percent of the area of the roof plane.
2. **Grounded Mounted SES:**
 - a) Shall be subject to the setbacks and standards for the district in which it is located.
 - b) Shall not exceed fifteen (15) feet in height when oriented at maximum tilt.
 - c) Shall not be located in any required front yard area and shall not be located closer than one hundred (100) feet to an existing adjacent residence.
 - d) Shall not exceed one (1) percent lot coverage. Square footage is calculated by the area encumbered by the outermost measurements of the solar equipment layout.
 - e) The location of each structure must be such that no part of the structure extends into the setback zone in any tilted position.

3. **Commercial SES are not permitted.**

a)
11.15 **Cannabis and Hemp Businesses.**

(1) Purpose and Authority.

(A) Purpose. The purpose of this section is to protect the public health, safety, welfare of the Town residents, and to promote the community's interest in reasonable stability in zoning, by regulating cannabis businesses within the legal boundaries of the Town.

(B) Authority. The Town is authorized by Minnesota Statutes, section Cannabis and Hemp 342.13(c) to adopt reasonable restrictions on the time, place, and manner Businesses of the operation of a cannabis business, including the adoption of zoning regulations under Minnesota Statutes, section 462.357. The Town is also authorized to regulate the use of cannabis in public places under Minnesota Statutes, section 152.0263, subdivision 5. The intent of this Section is to comply with the provisions of Minnesota Statutes, chapter 342 and the rules promulgated thereunder. References to statutes shall include any amendments made to those sections and includes any successor provisions

(2)

(A) Definitions. Unless otherwise noted in this section, words and phrases contained in Minnesota Statutes, section 342.01, and any amendments made thereto or any successor provisions, and the rules promulgated pursuant to Minnesota Statutes, Chapter 342, shall have the same meanings in this ordinance.

- a. Adult Use Cannabis Product. "Adult Use Cannabis Product" has the meaning given the term in Minnesota Statutes, section 342.01, subd. 4.
- b. Cannabis Business. "Cannabis Business" has the meaning given the term in Minnesota Statutes, section 342.01, subd. 14, and includes all businesses listed thereunder. For the purposes of this section, the term also includes hemp manufacturers and hemp retailers.
- c. Cannabis Cultivator. "Cannabis Cultivator" means a cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant. harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions authorized by Minnesota Statutes and the Office of Cannabis Management.
- d. Cannabis Delivery Service. "Cannabis Delivery Service" means a cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.41, or such other law as may apply, to transport and deliver cannabis flower, cannabis products,

lower-potency hemp edibles, and hemp-derived consumable products to customers and perform other actions authorized by Minnesota Statutes and the Office of Cannabis Management.

- e. Cannabis Event Organizer. “Cannabis Event Organizer” means a cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.39, or such other law as may apply, to hold a temporary cannabis event.
- f. Cannabis Manufacturer. “Cannabis Manufacturer” means a cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.31, or such other law as may apply, to manufacture cannabis concentrate, hemp concentrate, including hemp concentrate with a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent as measured by weight, artificially derived cannabinoids, adult-use cannabis products, lower-potency hemp edibles, and hemp-derived consumer products for public consumption and perform other actions authorized by Minnesota Statutes and the Office of Cannabis Management.
- g. Cannabis Retailer. “Cannabis Retailer” means any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form, including a retail location and the retail location(s) of a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, excluding lower-potency hemp edible retailers.
- h. Cannabis Testing Facility. “Cannabis Testing Facility” means a cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.37, or such other law as may apply, to test immature cannabis plants and seedlings, cannabis flower, cannabis products, hemp plant parts, hemp concentrate, artificially derived cannabinoids, lower-potency hemp edibles, and hemp-derived consumer products.
- i. Cannabis Transporter. “Cannabis Transporter” means a cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.35, or such other law as may apply, to transport immature cannabis plants and seedlings, cannabis flower, cannabis products, artificially derived cannabinoids, hemp plant

parts, hemp concentrate, lower-potency hemp edibles and hemp-derived consumer products as authorized by Minnesota Statutes and the Office of Cannabis Management.

- j. Cannabis Wholesaler. “Cannabis Wholesaler” means a cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.33, or such other law as may apply, to sell immature cannabis plants and seedlings, cannabis flower, cannabis products, lower-potency hemp edibles, hemp-derived consumer products to cannabis microbusinesses, cannabis mezzobusinesses, cannabis manufacturers, and cannabis retailers, to sell lower-potency hemp edibles to lower-potency hemp edible retailers and to perform other actions authorized by Minnesota Statutes and the Office of Cannabis Management.
- k. Daycare. “Daycare” means a location licensed with the Minnesota Department of Human Services to provide the care of a child outside the child’s own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.
- l. Lower-Potency Hemp Edible. “Lower-Potency Hemp Edible” has the meaning given the term in Minnesota Statutes, section 342.01 subd. 50.
- m. Lower-Potency Hemp Edible Retailer. “Lower-Potency Hemp Edible Retailer” means a business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.43, or such other law as may apply, to sell lower-potency hemp edibles.
- n. Medical Cannabis Business. “Medical Cannabis Business” means a cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, sections 342.47 through 342.515, or such other law as may apply, to cultivate, process, manufacture, package, and sell medical cannabis and cannabinoid products as authorized by Minnesota Statutes and the Office of Cannabis Management.
- o. Office of Cannabis Management (“OCM”). “Office of Cannabis Management (“OCM”)” means the Minnesota Office of Cannabis Management, which has the powers and duties set out in Minnesota Statutes, section 342.02.

- p. Place of Public Accommodation. "Place of Public Accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.
- q. Public Place. "Public Place" means a public park or trail, public street or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings, and other places of public accommodation.
- r. Residential Treatment Facility. "Residential Treatment Facility" has the meaning given the term in Minnesota Statutes, section 245.462, subdivision 23.
- s. School. "School" means a public school as defined under Minnesota Statutes, section 120A.05, or a nonpublic school that must meet the reporting requirements under Minnesota Statutes, section 120A.24.

(C) Performance Standards. Operation of cannabis businesses of the types established by Minnesota Statutes, section 342.10 within the Town shall comply with the provisions of this section and the following:

- a. State License Required. Operation of a business of the types established by Minnesota Statutes, section 342.10 shall require a state license issued by the OCM in accordance with Minnesota Statutes.
- b. Building Code. The business shall comply with the provisions of all applicable building codes.
- c. Fire Code. The business shall comply with the provisions of all applicable fire codes.
- d. Zoning Ordinance. The business shall comply with this Ordinance.
- e. Hours of Operation: No cannabis business with a license or endorsement authorizing the retail sale of cannabis flower or cannabis products may sell cannabis flower, cannabis products, lower-potency hemp edibles, or

hemp-derived consumer products outside of the hours of operation established by Pine County. If Pine County does not establish specific hours of operation, the hours established in Minnesota Statutes, section 342.27, subdivision 7 shall apply.

- f. Prohibited Activities. No cannabis business shall operate in a manner that violates, or fails to comply with, the provisions of Minnesota Statutes, Chapter 342, such other laws as may apply, and the following:
 - a) Smoking Prohibited. No cannabis flower, cannabis products, or hemp-derived consumer products in a manner that involves the inhalation of smoke, aerosol, or vapor shall be used at any location where smoking is prohibited under Minnesota Statutes, section 144.414; and
 - b) Statutory Prohibitions. No cannabis business authorized to sell at retail shall sell any cannabis flower or cannabis products in violation of any of the prohibitions in Minnesota Statutes, Section 342.27, subdivision 12.
- g. Buffer Zones.
 - a) Distances. Except as provided below, no cannabis business shall be located or operate within:
 - i. 1,000 feet of a school;
 - ii. 500 feet of a residential treatment facility;
 - (iii) 500 feet of a daycare facility;
 - (iv) 500 feet of an attraction within a public park that is regularly used by minors including, but not limited to, playgrounds and athletic fields; or
 - (v) 500 feet from another cannabis business.
 - (b) Measurement. Buffer distances shall be measured in the same fashion as the setbacks for the zoning district in which the cannabis business is located.

- (8) Nonconforming. A cannabis business lawfully established and operating in a location may continue to operate as a lawful nonconforming use if a school, residential treatment facility, daycare facility, or park is established within the required buffer distance. A cannabis business that becomes nonconforming is subject to the restrictions in Article III of the Town Code and Minnesota Statutes, section 462.357, subdivision 1e.
- (9) Lower-Potency Hemp Edibles. The sale of lower-potency hemp edibles are subject to the restrictions and requirements of this subsection.
 - (a) Age Restricted Areas. The sale of lower-potency hemp edibles is only allowed in places that limit admission to persons 21 years of age and older.
 - (b) Storage. Lower-potency hemp edibles shall be stored in a locked case and may only be sold behind a counter.
- (10) Medical Cannabis Businesses. A Medical Cannabis Business shall be classified as a Cannabis Cultivator, Cannabis Manufacturer and/or a Cannabis Retailer, depending on the scope of its operations, for purposes of determining which zoning district the particular business may be located.

(D) Temporary Cannabis Events.

- (1) Cannabis Event Permit Required. A cannabis business licensed by the Office of Cannabis Management to conduct temporary cannabis events may only conduct an event in a zoning district in which the use is allowed, and then only upon obtaining a cannabis event permit from the Town.
- (2) Consumption Prohibited. The consumption of adult-use cannabis products at a cannabis event is prohibited.

C. Application Process. Unless the interim use permit issued to a cannabis event organizer indicates otherwise, the following procedure shall apply for seeking a cannabis event permit for an event. A separate cannabis event permit is required for each event.

1. The applicant must complete and submit the Town's cannabis event permit application form together with the applicable fee at least 60 days before the start of the proposed event. Incomplete applications will be returned to the applicant without processing. If the proposed cannabis

event constitutes a special event under the Town's regulations, the applicant is required to follow the applicable requirements to obtain a special events permit, and such approval shall also constitute the cannabis event permit for the particular event.

2. If approved, the cannabis event permit shall, at a minimum, indicate the event location, dates (not to exceed four days), daily operating hours, and the specific restrictions or requirements placed on the event. The types of restrictions and requirements placed on an event will vary depending on the anticipated size and may include, but are not limited to, traffic routing, parking, security, sanitation facilities, garbage, first aid, limitations on amplified music and public address systems, insurance coverages, and maximum attendance.

D. Enforcement. The Town may suspend or revoke a cannabis event permit if the event organizer fails to comply with the conditions placed on the permit in any material way after being informed of the violation and the need to correct it. The Town may deny issuing a permit to an event organizer that failed to comply with any cannabis event permit issued within the preceding three years

(4) Enforcement. The Town may suspend or revoke a cannabis event permit if the event organizer fails to comply with the conditions placed on the permit in any material way after being informed of the violation and the need to correct it. The Town may deny issuing a permit to an event organizer that failed to comply with any cannabis event permit issued within the preceding three years.

Use in Public Places. No person shall use cannabis flower, cannabis products, lower potency hemp edibles, or hemp-derived consumer products in a public place or a place of public accommodation unless the premises is an establishment or an event licensed by the OCM to permit on-site consumption.

11.16 Manufactured Homes

General Standards

- (1) Dwellings must be sided and roofed in a uniform fashion. Skirting shall be of corrosion resistant material with proper venting. Skirting shall be installed within 60 days after the receipt of an approved zoning permit.
- (2) Dwellings shall contain no less than 750 square feet enclosed first floor living space to meet the minimum floor area requirements set out in this Ordinance. Overhangs and other projections beyond the principal walls shall not be taken into account in determining the minimum square footage of enclosed living space required hereunder

- (3) All Dwellings and any additions must be located upon a permanent foundation and anchored to resist overturning, uplift and sliding.
- (4) No mobile home, trailer, or manufactured dwelling, which was manufactured prior to July 1, 1972 shall be permitted but remain if currently installed in the Township.

ARTICLE XII SUBDIVISION OF LAND

12.1 **Purpose.** Each new subdivision or plat of land becomes a permanent and integral part of the physical structure of the Town, the design and the development of plats subdividing property establishes a pattern for the future development of the entire community and adherence to this pattern by future subdividers becomes mandatory. Planning of subdivisions in a piecemeal manner, without proper consideration being given to the overall development of the Town would lead to a chaotic patchwork of community development, making future improvements difficult, if not impossible and certainly very costly. The lack of regulations and mismanagement of subdivisions and platting of land would have a disastrous effect upon the distribution of population and would actually create areas contrasting so greatly in their environment as to provide for future so-called blighted areas from the start. To provide for the orderly and equitable development of the Town, all subdivisions and plats of land within the limits of the Town shall, in all respects, comply with the regulations set forth in this section.

12.2 **Compliance and Administration.**

- (1) Required. Except as hereinafter provided, no land shall be subdivided, platted, rearranged, or combined in any way which is not in conformity with these subdivision regulations. The conveyance or recording of any such land that has been subdivided, platted, rearranged, or combined shall not be allowed unless all required approvals have been obtained as provided in this section. The rules and regulations governing plats and subdivision of land contained in this section shall apply within the boundaries of the Town. Every division of land for the purpose of lease or sale into two or more lots, parcels or tracts within the Town or any combination of two or more lots shall proceed in compliance with this section. The subdivision of land in the Town shall also follow and comply with the requirements of the Pine County Subdivision Platting Ordinance, adopted May 5, 2015, except as stated below.
- (2) Exceptions. The requirements of this section shall not apply to the following:

- (A) A cemetery or burial plot while used for that purpose; or
- (B) Conveyances expressly exempt under Minnesota Statutes, section 462.358, subdivision 4b(b).

(3) Administration. This section shall be administered by the Town and requests to subdivide, combine, or plat land shall be processed and acted on in accordance with this section.

(4) General Restrictions.

- (A) Protection of Natural Resources. A request to plat land may be denied if due regard is not shown for the preservation of all natural features such as large trees, watercourses, scenic points, historical spots and similar community assets which, if preserved, will add attractiveness, stability and value to the property.
- (B) Land Suitability for Subdivision. The Town Board must find each lot created through subdivision suitable for land subdivision in its normal state for the proposed use with minimal alteration. Suitability analysis shall consider flooding, existence of wetlands, inadequate drainage, steep slopes, rock formations or other features with severe limitations for development, severe erosion potential, steep topography, important fish and wildlife habitat, near-shore aquatic conditions unsuitable for water-based recreation, presence of significant historic sites or any other feature of the natural land likely to be harmful to the safety, welfare or general health of future residents, or land which could not be adequately served by utilities or other public facilities or public access; such land shall not be subdivided unless adequate methods are provided for overcoming such conditions; or the land is platted as outlots.
- (C) Flood Prone Areas. No plan shall be approved for a subdivision which is subject to periodic flooding, or which contains poor drainage facilities and which would make adequate drainage of the roads, streets, and lots not reasonably possible. However, if the subdivider agrees to make improvements which will, in the opinion of the Town Board or an engineer retain by the Town, make the area safe for residential occupancy, and provide adequate road, street, and lot drainage, the Town Board may approve the requested subdivision. The approval of a subdivision does not imply that the land so divided will be free from flooding or flood damages. This Section shall not create liability on the part of the Town Board or any

officer or employee thereof for any flood damages that result from reliance on this section or any administrative decisions lawfully made hereunder.

- (D) **Approvals Necessary for Acceptance and Recording of Subdivision.** Before any plat or subdivision of land shall be recorded or be of any validity, it shall be approved by the Town Board as having fulfilled the requirements of this section. No plat or subdivision shall be entitled to be recorded in the Pine County Recorder's Office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed by this section.
- (E) **Zoning Permits.** No Zoning Permits shall be issued by the Town for the construction of any building, structure or improvement to the land or to any lot in a subdivision as defined herein, until all requirements of this section have been fully met. The Town may allow the installation of foundations after the aggregate base course is applied to streets. Except otherwise provided by this section, all electric and gas distribution lines or piping, roadways and other similar improvements shall be constructed only on a street, alley or other public way or easement which is designated on an approved plat, or properly indicated on the Official Map of the Town, or which has otherwise been approved by the Town Board. Upon adoption of an Official Map, no permit for the erection of any building shall be issued unless the building is to be located upon a parcel of land abutting on a street or highway which has been designated upon an approved plat or on the official map or which has been otherwise approved by the Town Board and unless the buildings conform to the established building line. No permit shall be issued for the construction of a building on any lot or parcel conveyed in violation of the provisions of this section.
- (F) **Established Monuments.** All federal, state, county and other official monuments, bench marks, triangulation points, and stations shall be preserved in their precise location; and it shall be the responsibility of the Developer to insure that these markers are maintained in good condition during construction and development. All section, quarter section, and sixteenth section covers shall be duly described and tied.
- (G) **Effect of Subdivision Approval.** For one year following preliminary approval and for two years following final approval, unless the subdivider and the Town Board agree otherwise in writing, no amendment to an official control shall apply to or affect the use, development density, lot

size, lot layout, or dedication or platting required or permitted by the approved application. Thereafter, pursuant to these regulations, the Town Board may extend the period by agreement with the subdivider subject to all applicable performance conditions and requirements, or it may require submission of a new application unless substantial physical activity and investment has occurred in reasonable reliance on the approved application and the subdivider will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving planned staged development, the Town Board may by resolution or agreement grant the rights referred to herein for such periods of time longer than two years which it determines to be reasonable and appropriate.

- (H) Legal Descriptions. The applicant shall be responsible for providing, at its own cost, all legal descriptions and surveys required for the particular approval being sought under this section. The applicant is responsible for the accuracy of the legal descriptions and for making any corrections, or providing any additional information, that may be required by the County to record the subdivision or plat.
- (I) Review Expenses. All of the survey, engineering, legal, administrative and planning expenses incurred by the Town as a result of the plat review and inspection shall be paid by the subdivider prior to acceptance of the final plat. Any expense involving an engineer retained by the Town in performing any work ordered by the Town Board or by the Subdivider shall be made a part of the construction expense and paid for from the funds deposited by the Subdivider. Administrative expenses shall include any and all expenses incurred by the Town Board in the review and inspection of the plat including, but not limited to mileage, compensation for time spent by Town officials and any costs in excess of the public hearing fee related to the conducting of a public hearing or hearings.
- (J) Resubdivisions. Whenever an existing plat is resubdivided, the subdivider shall comply with all of the requirements of this section deemed applicable by the Zoning Administrator.
- (K) Zoning. Prior to the approval of the preliminary plat, the subdivider shall proceed to rezone any or all plats to the proper zoning classification. Rezoning shall require a formal petition to be submitted by the owner in accordance with the applicable provisions of this Ordinance.

12.3 **Subdivision Methods.** The methods of subdividing land are as follows:

- (1) Lot line adjustments;
- (2) Minor subdivision; and
- (3) Major subdivision (platted subdivision).

12.4 **Review Criteria.** The Planning Commission and Town Board shall consider the following factors, together with any additional criteria established for the particular approval being requested, when reviewing a requested subdivision under this section.

- (1) The proposed subdivision of land will not result in more lots than allowed under the particular method of subdivision;
- (2) All necessary utility and drainage requirements are fulfilled and easements are provided for;
- (3) All lots to be created by the subdivision conform to lot area and width requirements;
- (4) All Town zoning requirements are met;
- (5) Lots created have direct access onto a public street;
- (6) Unless waived by the Town Board, the property has not been divided through the provisions of this section within the previous five years;
- (7) The subdivision meets all design and dedication standards as specified elsewhere in this section;
- (8) All basic improvements required by this section are installed in accordance with Town standards; and
- (10) No subdivision of any parcel of land or portion thereof shall result in buildings and/or uses becoming nonconforming.

12.5 **General Requirements.** The following apply to the subdivision of land in the Town and must be complied with when applicable.

1. Minimum Lot Size. The lots created by subdivision shall meet the dimensional requirements of the underlying district.
2. Licensed Surveyor. All certificates of survey and plats must be prepared by a surveyor licensed by the State of Minnesota.
3. Dedication of Streets and Other Lands by Plat. All lands to be dedicated to the public within the plat must be clearly identified and contain dedication language that is satisfactory to the Town Board. The Town Board's approval of a plat containing roads or other ways or easements dedicated to the public does not constitute a decision by the Town to open and maintain those roads, ways, or easements. The approval is limited to the plat itself and separate approval by the Town Board is required before the Town will open and maintain any platted roads as part of its system of publicly maintained Town roads. It is the responsibility of the person subdividing the property to construct and pay for all streets, storm water ponds and other drainage structures, and other improvements within those lands dedicated to the public in accordance with the Town's specifications and requirements as a condition of plat approval. The Town may require a development agreement to provide further details regarding the required improvements and identify the procedures and conditions under which the Town will be willing to open and maintain a platted road as part of its system of publicly maintained Town roads. It is the responsibility of the developer or those who own property within the plat to maintain a platted street until the Town Board determines by resolution that it is sufficiently built and satisfies such other conditions of acceptance the Town Board may require to be opened and maintained as part of the Town's system of publicly maintained Town roads. The development agreement may identify the specific procedures and requirements for when the Town will assume the maintenance of the streets within the plat.
4. Development Agreement. The Town Board may require the owner and developer to enter into a development agreement with the Town as a condition of any approval under this Article. If such an agreement is required, the Town shall draft it, the executed agreement shall be recorded in the office of the County Recorder/Registrar of Titles, and its provisions shall constitute a covenant on the property that must be complied with by the developer and owners of the property.
5. Title and Recording. The owner who subdivides his or her property is solely responsible for developing such legal descriptions and deeds as may be required, recording the resulting parcels in the office of the County Recorder/Registrar of

Titles, obtaining new tax parcel numbers, and for otherwise complying with all requirements of the state and county to properly complete and record the subdivision of the property.

6. Town Costs. In addition to paying the required application fee, a person who subdivides property is also responsible for fully reimbursing the Town for its actual costs associated with its review and action on the proposed subdivision. The Town's actual costs include the Town's administrative and inspections costs, recording costs, and all professional fees and other costs it may incur related to the proposed subdivision, regardless of whether the subdivision is approved or denied. The Town shall not sign the final plat until all costs are paid in full and the owner and/or developer has escrowed funds with the Town to pay such additional costs as the Town may incur. The owner and developer shall remain responsible for fully reimbursing all costs the Town incurs related to the plat, including those costs incurred after the Town signs the final plat.

12.6 Lot Line Adjustments.

- (1) Lot Line Adjustment. The division of land made for the purpose of adjusting the boundary lines of parcels of land to an abutting lot or to otherwise exchange property between adjacent lots which does not create any new lots, tracts, parcels or sites; nor does a boundary adjustment create any lot, tract, parcel or site which contains insufficient area and dimensions to meet minimum requirements for width, lot size, and area for building as required by this Ordinance. The newly acquired land must be combined on the same deed for recording purposes as the remainder of the owner's property.
- (2) Review Process. The Planning Commission must approve a lot line adjustment. An applicant shall submit to the Zoning Administrator an application for the lot line adjustment along with certain other submittals as required by the Town. The applicant shall pay in advance the appropriate application fees and deposit funds in escrow to cover the legal expenses of the Town, which are necessary to process the request. Said fees and escrow shall be established by ordinance of the Town. Once approved, necessary documents must be submitted to Pine County for approval and recording. The applicant is responsible for all fees charged by Pine County.

(C) Submittals. In addition to a completed application form, a request for a lot line adjustment shall include the following submittals:

- (1) Legal descriptions of the original parcels and of the resulting parcels; and
- (2) A certificate of survey showing the original parcels and the resulting parcels, including the lot dimensions and any site development currently on the property.

12.7 **Minor Subdivision.**

- (1) Minor Subdivision. A minor subdivision is any subdivision containing three or less lots fronting on an existing public street, or approved private driveway, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provisions of this Ordinance.
- (2) Review Process. A minor subdivision is reviewed and approved by the Planning Commission. An applicant shall submit to the Zoning Administrator an application for the minor subdivision along with certain other submittals required by the Town. The applicant may elect, but is not required, to plat a minor subdivision and any such plat shall be in accordance with the requirements of Minnesota Statutes, chapter 505. The applicant shall pay in advance the appropriate application fees and deposit funds in escrow to cover the costs incurred by the Town in processing the request. Said fees and escrow shall be established by ordinance of the Town. The approval process will consist of review by the Planning Commission for compliance with this Ordinance. The Planning Commission may, but is not required to, notice and hold a public hearing regarding the minor subdivision, and the Planning Commission shall act by resolution on the proposed minor subdivision and may add conditions to its approval.
- (3) Submittals. In addition to a completed application form, a request for a minor subdivision shall include the following submittals:
 - (A) Legal description of the original parcel and of the resulting lots;
 - (B) A certificate of survey prepared by a licensed land surveyor showing the boundaries of the newly created lots. All improvements on the property should also be shown on the boundary survey;
 - (C) Drainage, grading, and erosion control plans;
 - (D) Wetland delineation report and map;

- (E) Topographic data at ten (10) foot contour intervals;
- (F) Buildable area on the proposed lots;
 - (A) Proof the real estate taxes are paid
 - (B) Provide information about municipal sewer or provide soils test information for a primary and secondary septic system.
 - (C) Driveway access points; and
- (H) Other information as may reasonably be required by the Zoning Administrator Town Board.

12.8 Major Subdivision.

- (1) Major Subdivision. All subdivisions not classified as a lot line adjustment or minor subdivision including, but not limited to, a subdivision of four or more lots, or any size subdivision requiring any new street or extension of an existing street, shall constitute a major subdivision. All major subdivisions shall be platted in accordance with Minnesota Statutes, chapter 505.
- (2) Pre-Application Meeting. An owner proposing a major subdivision shall meet with the Zoning Administrator and other appropriate Town officials in order to be made fully aware of all applicable ordinances, regulations, and plans in the area to be subdivided. At the initial meeting or at a subsequent pre-application meeting, the owner shall submit a general sketch plan of the proposed subdivision and preliminary proposals for the provision of water and sewer service, if applicable. The sketch plan can be presented in simple form, but must show that consideration has been given to the relationship of the proposed subdivision to existing community facilities that would serve it, to neighboring subdivisions and developments, and to the natural resources and topography of the site.
- (3) Not Formal Filing. Submission of a sketch plan shall not constitute formal filing of a plat with the Town. Instead, it provides the applicant an opportunity to discuss the proposed plat with the Town and its staff to receive input and direction. Any advice, comments, or recommendations for modification made by the Town are advisory only and shall not constitute approval or a commitment to approve.
- (4) Preliminary Plat Process.

(A) Application. After participating in at least one pre-application meeting with the Town, an owner may submit an application seeking preliminary approval for a major subdivision together with the applicable fees. If the application is not complete, the Zoning Administrator will inform the applicant what additional information is needed before the application will be processed. The Zoning Administrator shall forward the complete application to the Planning Commission to review. The owner must submit the following additional information with its application in order for the application to be considered complete:

- (a) Seven copies of the proposed preliminary plat;
- (b) Seven copies of all proposed restrictive covenants or other restrictions which will be imposed upon the purchasers of lots and upon their heirs and successors;
- (c) Disclose in writing any conditions on the proposed lots that could make them unsuitable or interfere with their use as a building site or for human occupation. Such conditions include, but are not limited to, potential for flooding, inadequate drainage, soil and rock formations, unfavorable topography, soil erosion, inadequate water supply, inadequate sewage disposal characteristics, or any other reasons that would make a lot marginally suitable for building construction or human occupancy; and
- (d) Accurate legal description of the property being subdivided and the legal description, including acreage, of the remaining portion of the property not being included in the plat (if any).

(B) Public Hearing. Once the Planning Commission receives a complete application for preliminary plat approval it shall schedule and hold a public hearing regarding the application. The hearing shall be preceded by at least 10 days' published notice. At the conclusion of the hearing the Planning Commission shall develop and forward to the Town Board its recommendation regarding the proposed preliminary plat together with any findings it may develop to support its recommendation. The Planning Commission may include proposed conditions in its recommendation to the Town Board.

(C) Final Decision. The Town Board shall review the application, the Planning Commission's recommendation, and determine whether to approve the

preliminary plat. The Town Board may place conditions on its approval of the preliminary plat including, but not limited to, requiring the owner to enter into a development agreement with the Town. An applicant shall not be allowed to submit an application to the Town for final plat approval until all conditions imposed on the preliminary plat approval required to seek final approval have been satisfied including, but not limited to, entering into a development agreement with the Town if one is required.

(D) Additional Information. The Planning Commission and the Town Board shall have the authority to request additional information from the applicant concerning the proposed subdivision and its operational factors or impact, or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors or impacts, when said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.

(5) Final Plat Process.

(A) Application. Once the owner satisfies all of the conditions identified in the approval of the preliminary plat as needing to be satisfied before final approval may be sought, the owner may apply for final plat approval. Failure to apply for final approval within one year from the date of preliminary approval shall render the preliminary approval null and void unless the Town Board grants an extension, which shall not exceed six months. The application must be submitted to the Zoning Administrator together with the applicable fees. If the application is not complete, the Zoning Administrator will inform the applicant what additional information is needed. The final plat must include all changes required by the preliminary approval and comply with all applicable legal requirements. The Zoning Administrator shall forward the complete application to the Planning Commission for review and a recommendation. The owner must submit seven copies of the proposed final plat with its application in order for the application to be considered complete.

(B) Final Decision. The Town Board shall review the application, the Planning Commission's recommendation, and determine whether to approve the final plat. The Town Board may place conditions on its approval of the final plat including, but not limited to, requiring the owner to enter into a development agreement with the Town. An applicant shall not be allowed

to submit an application to the Town for final plat approval until all conditions imposed on the preliminary plat recording are met.

- (C) Authorization to Sign Plat. Unless expressly stated otherwise, the Town Board's approval of the final plat authorizes the Town Board Chairperson to sign the final plat once the Planning Commission Chair confirms that all of the conditions imposed by the Town have been satisfied. If the Town requires a development agreement be executed for the plat, the Town Board Chairperson may not sign the final plat until the agreement has been fully executed by all parties and is in the Town's possession.
- (D) Form of Approval. The language used on the final plat to indicate the Town Board's approval must be in a form acceptable to the Town.

ARTICLE XIII NONCONFORMING USES, STRUCTURES, AND LOTS

- 13.1 **Purpose.** It is the purpose of this Article to provide for the regulation of nonconforming buildings, structures, and uses and to specify those requirements, circumstances, and conditions under which nonconforming buildings, structures, and uses will be operated and maintained. This Ordinance establishes separate zoning districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures, and uses will not be permitted to continue without restriction. Furthermore, it is the intent of this section that all non-conforming uses shall be eventually brought into conformity.
- 13.2 **Nonconforming Uses and Structures.** Except as otherwise provided by law or this Ordinance, any use or structure lawfully existing on the effective date of this Ordinance may be continued at the size and in the manner of operation existing upon such date, subject to the following conditions:
 - (1) Except as expressly allowed by this Ordinance, a nonconforming use or structure shall in no way be expanded, enlarged, or extended, either on the same property or onto an adjoining lot of record. Prohibited expansion, enlargement, or extension shall include anything that increases the intensity of the use including, but not limited to, a change to a more intense nonconforming use or a physical expansion of the existing use or structure that increases the height, volume, or area dimensions of the non-conforming use or structure;

- (2) Routine maintenance of a structure containing or relating to a lawful nonconforming use is permitted, including any necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use. Nothing in this Section will prevent the placing of a structure into a safe condition after it has been declared unsafe by the appropriate official;
- (3) Alterations may be made to a building containing nonconforming residential units when the alterations will improve the livability of such units, provided that such alterations do not increase the number of dwelling units in the building. Such alterations must be approved by the Zoning Administrator;
- (4) Whenever a nonconforming structure or use is damaged by fire or other peril to the extent of 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, it may be reconstructed. The nonconforming structure or use shall not be permitted to be reconstructed if the damage is greater than 50 percent of the 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 was damaged. When a nonconforming structure in a shoreland area 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 by the Town or County, if practical. In that event, conditions will be placed on the building permit in order to mitigate created impacts on adjacent properties and the water body;
- (5) Whenever any lawful nonconforming use of any structure or land is replaced by another use or structure, the new use or structure must conform to the provisions of this Ordinance and it shall not thereafter be changed to any nonconforming use or structure;
- (6) If the nonconforming use of land is discontinued for a period of more than one year, the subsequent use of the land or the structure shall be in conformity with this Ordinance;
- (7) Nonconforming uses or structures which are declared by the Town Board to be public nuisances shall not be allowed to continue as legal nonconforming uses or structures; and

(8) No repair, replacement, maintenance, improvement, or expansion of a nonconforming use or structure in a floodplain area shall be allowed if such activity would jeopardize the property's continued eligibility in the National Flood Insurance Program, would increase flood damage potential, or would increase the degree of obstruction to flood flows in the floodway.

ARTICLE XIV ADMINISTRATION

14.1 **Zoning Administrator**. The Zoning Administrator for the Town shall be appointed by the Town Board. If the Town Board does not specifically designate a person to serve as the zoning administrator, the Town Board shall serve as the zoning administrator and may delegate one or more of the duties of the position to a member of the Planning Commission or other persons as the Town Board determines is appropriate. Such person or persons shall be fully authorized to carry out the delegated duties on behalf of the Town.

14.1.1 **Duties**. The zoning administrator shall have the following duties, which shall be conducted in a manner which is consistent with this Ordinance, applicable laws, and the directions and instructions of the Town Board:

- (A) Administer the provisions of this Ordinance;
- (B) Determine whether a permit application is complete and complies with the terms of this Ordinance;
- (C) Receive, and forward to the Planning Commission, Board of Appeals and Adjustments, and Town Board, applications and other zoning materials as is appropriate;
- (D) Issue permits either administrative or approved by the Planning Commission or Town Board as appropriate, as provided in this Ordinance;
- (E) Issue notices of denial to applicants;
- (F) Maintain permanent and current records of permits and approvals issued pursuant to this Ordinance, including, but not limited to, amendments to this Ordinance, issuance of conditional use permits, variance approvals, and appeals;

- (G) Conduct inspections to determine compliance with the provisions of this Ordinance, and recommend in the name of the Town, any appropriate actions or proceedings against a violator as provided by this Ordinance or law;
- (H) Track the application of the 60-day rule to land use requests, provide notices to applicants as may be needed, and to keep the Town informed of the applicable deadlines for actions with respect to individual land use requests;
- (I) Direct the Town Clerk to file for record with the Pine County Recorder or Registrar of Titles all zoning related documents required to be filed by law;
- (J) To enforce this Ordinance, including through the issuance of violation notices, stop work orders, cease and desist orders, or corrective orders as determined appropriate by the Town Board, and to work with the Town Attorney as needed to administer and enforce this Ordinance; and
- (K) To perform such other duties and responsibilities as provided in this Ordinance or as assigned by the Town Board.

14.2 Planning Commission

14.2.1 Reestablishment of Planning Commission. The Windemere Township Planning Commission (“Commission”) is hereby reestablished pursuant to Minnesota Statutes, section 462.354 and in accordance with the provisions of this Section. The previous acts and recommendations of the Commission are hereby ratified and reaffirmed. The Commission shall serve as the planning agency for Windemere Township (“Town”) and shall be known as the Windemere Township Planning Commission. The Commission shall serve in an advisory capacity to the Windemere Township Town Board of Supervisors (“Board”).

14.2.2 Composition. The Commission shall consist of five (5) voting members as appointed by the Town Board and may include one or more Town officers. Members must reside in the Town. The Town Board shall designate the number of Commission members by resolution and may decrease or expand the number of Commission members by subsequent resolutions as it determines is

appropriate, provided the number of Commission members does not exceed five. A majority of Commission members constitute a quorum to conduct the Commission's business. A vote of the majority of a quorum is needed to take action. Each Commission member, including the Chair and Vice-Chair, shall have one vote on all matters acted upon by the Commission. A member must be present at a meeting to vote.

14.2.3 **Appointment, Vacancies.** The Town Board shall appoint the Commission members. Vacancies occurring on the Commission shall be filled by Town Board appointment for the remainder of the term of the position. Persons appointed to the Commission must take an oath of office and file it with the Town Clerk before undertaking the duties of the position.

14.2.4 **Term and Removal.** Commission members are appointed for a term of three years and until a successor is appointed and qualifies. Terms expire on December 31st. Commission members serve at the pleasure of the Town Board and may be removed by the Town Board at any time for any reason. The Town Board shall stagger the terms of Commission members as it determines is appropriate to minimize the number of Commission positions expiring in the same year.

14.2.5 **Officers and Duties.** The Commission shall appoint from among its members a Chair and Vice-Chair. The Chair shall be the presiding officer for Commission meetings and shall sign documents on behalf of the Commission as needed. The Vice-Chair shall conduct the duties of the Chair in the Chair's absence. The Commission shall also appoint a Secretary, which may be the Town Clerk. The Secretary shall provide notices, keep records of the Commission's proceedings, and countersign the Chair's signature on Commission documents. The Secretary does not have a vote on the Commission unless they are appointed to and serve as a Commission member.

14.2.6 **Rules and Procedures.** The Commission may adopt rules and procedures related to how it conducts its meetings and hearings. Commission members shall serve without compensation.

14.2.7 **Meetings.** Meetings of the Commission shall be held during the second week of April, June, August and October at the call of the Chair and at such other times as the Commission, in its rules of procedure, may specify. The Chair is authorized to call Commission meetings as necessary to conduct the Commission's business. Commission meetings may be held in conjunction with Board meetings. All meetings of the Commission shall be open to the public, and notice shall be provided, in accordance with Minnesota Statutes.

14.2.8 Commission Powers and Duties. The Commission shall have the powers and duties provided it by Minnesota Statutes, chapter 462 and such other powers and duties as may be delegated by the Board. The Commission shall not have the authority to hire staff, enter into contracts, or to otherwise bind the Town to third parties.

14.3 Board of Appeals and Adjustments. The Town Board shall serve as the Windemere Township Board of Appeals and Adjustments.

14.3.1 Rules and Procedures. The Board of Appeals and Adjustments may adopt rules and procedures related to how it conducts its meetings and hearings, provided such rules and procedures are consistent with the provisions of this Ordinance and applicable laws.

14.3.2 Meetings and Hearings. The Board of Appeals and Adjustments will hold meetings and hearings as needed to conduct its duties. Meetings of the Board of Appeals and Adjustments may be held as part of the regular or special meetings of the Town Board.

14.3.3 Powers and Duties. The Board of Appeals and Adjustments shall have the following powers and duties:

- (A) To grant variances from the strict enforcement of the standards and provisions prescribed by this Ordinance. Variances shall only be granted based upon the criteria prescribed in this Ordinance;
- (B) To hear and decide appeals. Appeals shall only be heard and considered in conformance with the procedures prescribed in this Ordinance;
- (C) To interpret the provisions of this Ordinance and of any district boundary on the land use map; and
- (D) Perform such other duties as provided in this Ordinance.

ARTICLE XV **ZONING REQUESTS**

15.1 Zoning Permits

No structure or part thereof shall hereafter be erected, constructed, converted, reconstructed, moved, or structurally altered and no land shall change in use unless in conformity with all of the regulations specified in this Ordinance, and all acts amendatory thereof.

In each zone district each structure or use hereafter erected, or altered or established, shall be provided with the yards and setbacks specified, shall be on a lot of the area and width specified, and shall not exceed the percent of maximum total building coverage of its lot as specified in this Ordinance. No open space, lot, off-street parking, or loading space required for a building or structure, shall be included as part of a lot, open space, off-street parking, or loading space for another building structure.

Sewage Disposal - Structures which require sewage disposal facilities and which are located on a lot serviced by public sewage facilities shall be required to connect to such facilities subject to the approval of the local unit of government operating the sewage collection/disposal system. Any premises intended for human occupancy or use must be provided with an approved method of sewage disposal according to the standards of the Moose Lake Windemere Sanitary Sewer District (MLWSSD) and/or Pine County's Subsurface Sewage Treatment Systems Ordinance.

A zoning permit shall be required for the following:

- (1) New additions, improvements to existing structures,;
- (2) Dwelling(s)
- (3) Accessory structure over 150 square feet(s)
- (4) Relocation or moving of new dwelling unit on site;
- (5) Deck(s);
- (6) Building(s);
- (7) Bunkhouse(s);
- (8) Cabin(s);
- (9) Garage(s);
- (10) Driveway(s);
- (11) Guest Cottage(s);
- (12) Lean-tos; (Roofed with no walls.)
- (13) Kennel(s);
- (14) Solar Panels;
- (15) Grading and fill within the Shoreland Overlay District;
- (16) Shoreland Alteration and Restoration within the Shoreland Overlay District; and

No permit shall be required for normal repair and maintenance of existing structures providing the current structure dimensions are not expanded beyond the current

configuration. The cost of zoning permits shall be posted on the fee schedule adopted by the Town Board.

Application. An application for a zoning permit must be on the Town's approved form, contain all the information required by the form, and be accompanied by the required application fee. Zoning permit applications shall be submitted to the Zoning Administrator. The applications shall include all information listed on the town's approved zoning permit and such other information as may be deemed necessary by the Zoning Administrator. An application for new construction on previously undeveloped land may require a Right of Way permit to be issued prior to or in conjunction with a Zoning Permit.

Note: the replacement of an entire structure requires that existing square footage must be confirmed by the Windemere Township zoning administration prior to existing structure removal.

All zoning permits are valid for one (1) year from the date the permit is issued. If substantial construction has not taken place within one (1) year from the date on which the permit was granted, the permit shall become void and no further work may occur until a new land use permit is applied for and obtained from the Town. To proceed substantially means to make visible improvement to the property.

Prior to expiration of the original permit a one-time one-year extension may be obtained for a fee, provided that an on-site inspection proves compliance with the original permit. Any changes from the original permit require application for a new permit and payment of the applicable fees. The new permit shall be valid for one year."

No zoning permit will be issued for any lot that is subdivided after June 3, 2004 when such subdivision is in violation of the Subdivision Regulations.

No lot shall be created after the passage of this Ordinance which does not meet the requirements of this Ordinance.

For any use, whether permitted or conditional, where an Environmental Assessment Worksheet, or Environmental Impact Statement is required and where Pine County is also designated as responsible agency, the proposer

shall be required to supply all information requested by the Township to complete said documents.

Right of Way Permit

Work within the public right of way shall require the require a right of way Permit.

Display Required. The zoning permit must be displayed on the property in a location visible from the outside during the excavation, moving, or changing any part of a structure.

Verifiable Survey Marker. The applicant for a zoning permit is required to locate and stake the boundary lines of the lot, and shall stake the proposed location of the structure, in order to ensure compliance with applicable setbacks. If the Zoning Administrator determines the location of the boundary lines is uncertain, the Zoning Administrator may make a recommendation to the Town Board to require the applicant to have a survey completed. Zoning Administrator's may require the applicant to have a licensed surveyor complete, at the applicant's own cost, a survey before the Town will issue the zoning permit or as a condition on the permit before any work may commence.

Duration. All Zoning permits are valid for one (1) year from the date the permit is issued. If substantial construction has not taken place within one (1) year from the date on which the permit was granted, the permit shall become void and no further work may occur until a new Zoning permit is applied for and obtained from the Town. Prior to expiration of the original permit a one-time one-year extension may be obtained for a fee, provided that an on-site inspection proves compliance with the original permit. Any changes from the original permit require application for a new permit and payment of the applicable fees. The new permit shall be valid for one year.

Exceptions. A Zoning Permit shall not be required for any of the following, however, compliance with all applicable setback requirements is required:

(A)

(B) Construction that does not extend the structure beyond the current roofline or sidewalls of the building or structure including maintenance and/or replacement of existing sidewalks, porches, driveways, patios and decks;

- (C) Canvas awnings;
- (E) Handicap accessibility ramps;
- (G) Temporary green houses and storage units constructed with plastic sheeting or canvas that are less than 150 square feet in size;
- (H) Placement or replacement of windows, roofing or siding;
- (J) Maintenance of trails;
- (L) Hunting stands;
- (N) Above ground swimming pools;
- (O) Play apparatus such as swing sets, slides, sandboxes, poles for nets, picnic tables, lawn chairs, barbecue stands and similar equipment or structures as well as playhouses and tree houses with a total square footage of less than 250 square feet.
- (Q) Interior remodeling;
- (R) Replacement of any wells or septic systems, however septic system replacement permits must be obtained from Pine County.

15.2 Conditional Use Permits.

15.2.1 Criteria for Granting Conditional Use Permits. In determining whether to grant a conditional use permit, the Planning Commission and Town Board shall consider the effect of the proposed use upon the health, safety, and general welfare of occupants of surrounding lands and water bodies. Among other things, the Planning Commission and Town Board shall consider the following criteria in determining whether to approve a requested conditional use permit:

- (1) The use will not create an excessive burden on existing parks, schools, roads, and other public facilities and utilities which serve or are proposed to serve the area;

- (2) The use will be sufficiently compatible or separated by distance or screening from adjacent agriculturally or residentially zoned or used land so that existing property will not be depreciated in value and there will be no deterrence to development of vacant land;
- (3) The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties;
- (4) The use, in the opinion of the Planning Commission and Town Board, is reasonably related to the existing land use;
- (5) The use is consistent with the purpose of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use; and
- (6) The use will not cause traffic hazards or congestion.

15.2.2 **Conditions of Approval.** In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to these standards and requirements expressly specified by this Ordinance, additional conditions considered necessary to protect the best interest of the surrounding area or the community as a whole. These conditions include, but are not limited to, the following:

- (1) Increasing the required lot size or yard dimension;
- (2) Limiting the height, size or location of buildings;
- (3) Controlling the location and number of vehicle access points;
- (4) Increasing the road width;
- (5) Increasing the number, size, location or lighting of signs;
- (6) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;
- (7) Designation of open space;
- (8) Annual review if deemed appropriate by the Town Board; and

- (9) Such other conditions as deemed necessary to eliminate or reduce the negative impacts of the use.

15.2.3 Procedure.

- (1) Applications for conditional use permits will not be accepted from anyone who is not an owner of land for which the application is made.
- (2) The person applying for a conditional use permit shall fill out and submit to the Zoning Administrator a conditional use permit application form and application fee.
- (3) The Zoning Administrator shall refer the application to the Planning Commission for review.
- (4) The Planning Commission shall hold a public hearing on the application. At least ten (10) days' published notice shall be provided of the public hearing. The Planning Commission will take final action on the request. A written record of conditions of approval shall be made at the time of the decision by the Planning Commission.
- (5) The applicant or his representative shall appear before the Planning Commission in order to present evidence concerning the proposed conditional use;
- (6) If the Planning Commission recommends granting the conditional use permit, it may recommend conditions it considers necessary to protect the public health, safety and welfare.
- (7) An amended conditional use permit application shall be administered in a manner similar to that required for a new conditional use permit. Amended conditional use permits shall include requests for changes in conditions and as otherwise described in this Ordinance.
- (8) No application for a conditional use permit shall be resubmitted for a period of six (6) months from the date of denial.
- (9) Granted conditional use permits shall become void if the applicant does not proceed substantially on the work within one year, where applicable. To proceed substantially means to make visible improvement to the

property. One or more extensions for not more than one year each may be granted by the Planning Commission for good cause.

- (10) If the land use does not conform to the conditions of the permit, the conditional use permit may be revoked after notice to the applicant of a public hearing for the intended revocation and passage of a resolution of the Planning Commission to that effect.
- (11) All conditional use permits that are granted by the Planning Commission must be maintained in the files of the Windemere Township Clerk.
- (12) The Zoning Administrator shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the Planning Commission and Town Board, time limits, review dates, and such other information as may be appropriate.

15.2.4 Amended Conditional Use Permit. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued, shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued.

15.3. **Interim Use Permits.**

15.3.1 Criteria for Granting Interim Use Permits. In determining whether to grant an interim use permit, the Planning Commission shall consider the effect of the proposed use upon the health, safety, and general welfare of occupants of surrounding lands and water bodies. Among other things, the Planning Commission shall consider the following criteria in determining whether to approve a requested interim use permit:

- (1) The use will not create an excessive burden on existing parks, schools, roads, and other public facilities and utilities which serve or are proposed to serve the area;
- (2) The use will be sufficiently compatible or separated by distance or screening from adjacent agriculturally or residentially zoned or used land so that existing property will not be depreciated in value and there will be no deterrence to development of vacant land;

- (3) The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties;
- (4) The use, in the opinion of the Planning Commission and, is reasonably related to the existing land use;
- (5) The use is consistent with the purpose of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use; and
- (6) The use will not cause traffic hazards or congestion.

15.3.2 Conditions of Approval. In permitting a new interim use permit or the alteration of an existing interim use permit, the Planning Commission may recommend and impose, , in addition to these standards and requirements expressly specified in this Ordinance, additional conditions considered necessary to protect the best interest of the surrounding area or the community as a whole. These conditions include, but are not limited to, the following:

- (1) Increasing the required lot size or yard dimension;
- (2) Limiting the height, size or location of buildings;
- (3) Controlling the location and number of vehicle access points;
- (4) Increasing the road width;
- (5) Increasing the number, size, location or lighting of signs;
- (6) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;
- (7) Designation of open space;
- (8) Annual review if deemed appropriate by the Planning Commission; and
- (9) Such other conditions as deemed necessary to eliminate or reduce the negative impacts of the use.

15.3.3 Procedure.

- (1) Applications for interim use permits will not be accepted from anyone who is not an owner of land for which the application is made.
- (2) The person applying for an interim use permit shall fill out and submit to the Zoning Administrator an interim use permit application form and application fee.
- (3) The Zoning Administrator shall refer the application to the Planning Commission for review.
- (4) The Planning Commission shall hold a public hearing on the application. At least ten (10) days' published notice shall be provided of the public hearing. The Planning Commission will take final action on the request. A written record of conditions of approval shall be made at the time of the decision by the Planning Commission.
- (5) The applicant or his representative shall appear before the Planning Commission in order to present evidence concerning the proposed interim use.
- (6) If the Planning Commission recommends granting the interim use permit, it may recommend conditions it considers necessary to protect the public health, safety and welfare.
- (7) An amended interim use permit application shall be administered in a manner similar to that required for a new interim use permit. Amended interim use permits shall include requests for changes in conditions and as otherwise described in this Ordinance.
- (8) No application for an interim use permit shall be resubmitted for a period of six (6) months from the date of denial.
- (9) Granted interim use permits shall become void if the applicant does not proceed substantially on the work within one year, where applicable. To proceed substantially means to make visible improvement to the property. One or more extensions for not more than one year each may be granted by the Planning Commission for good cause.
- (10) If the land use does not conform to the conditions of the permit, the interim use permit may be revoked after notice to the applicant of a public

hearing for the intended revocation and passage of a resolution of the Planning Commission to that effect.

- (11) All interim use permits that are granted by the Planning Commission must be maintained in the files of the Windemere Township Clerk.
- (12) The Zoning Administrator shall maintain a record of all interim use permits issued including information on the use, location, and conditions imposed by the Planning Commission, time limits, review dates, and such other information as may be appropriate.

15.3.4 Amended Interim Use Permit. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the interim use permit issued, shall require an amended interim use permit and all procedures shall apply as if a new permit were being issued.

15.4 **Variances.** No variances shall be granted by the Town except in conformance with this Section.

15.4.1 **Authority:** The Board of Appeals and Adjustments may grant a variance from the provisions of this Ordinance in order to promote the effective and reasonable application and enforcement of this Ordinance. A variance is a modification or variation of the provisions of this Ordinance as applied to a specific property. The Board of Appeals and Adjustments may not grant a variance for any use that is not allowed by this Ordinance for property in the zoning district in which the property is located. The Board of Appeals and Adjustments may grant a variance for the temporary use of a one family dwelling as a two family dwelling.

15.4.2 **Application:** Application for a variance shall be made by the property owner, or its authorized agent, on the Town's application form, be accompanied by the required application fee and escrow (if required), and must, at a minimum, contain all of the following information:

- (1) The name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the application relates;
- (2) The name of the applicant and of all owners of the property to which the application relates;

- (3) A description of the proposed use or structure to which the variance relates; and
- (4) An explanation of the specific conditions and circumstances that give rise to the practical difficulties in strictly complying with the provisions of this Ordinance and the specific provisions of this Ordinance from which a variance is being sought.

15.4.3 Procedure. Requests for a variance shall comply, and shall be processed in accordance, with the following:

15.4.3.1 Zoning Administrator. An application for a variance must be submitted to the Zoning Administrator. The Zoning Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fees. If an application is not complete, the Zoning Administrator shall provide the applicant written notice of what information is needed in order to make the application complete within 15 days of the Town's receipt of the application. The Zoning Administrator shall forward complete applications to the Planning Commission to conduct a hearing.

15.4.3.2 Notice. At least ten days before the date of the hearing, notice shall be published in the Town's official newspaper and mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the application relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.

15.4.3.3 Site Investigation. The Town may conduct one or more site investigations of the property as part of processing a variance application. If a quorum or more of the Planning Commission or the Board of Appeals and Adjustments conducts a site investigation, notice shall be posted at the Town's posting places at least three days before the date of the inspection unless the inspection is being conducted as part of the hearing. The Town may also conduct one or more site investigations after a variance has been issued to review an alleged or potential violation of the conditions of the variance or of this Ordinance. Submission of an application, and acceptance of a variance, constitutes consent on the part of the owners of the property to the conditions imposed on the variance and to allow the Town to conduct inspections of the property at reasonable times to determine eligibility to receive a variance and then related to the administration and enforcement of the variance.

15.4.3.4 **Planning Commission.** The Planning Commission shall conduct a public hearing on the proposed variance and develop a recommendation to the Board of Appeals and Adjustments regarding the proposed variance. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. In reviewing the request and developing its recommendation, the Planning Commission shall consider the criteria set out in this Section and such other factors as it determines are appropriate to evaluate the proposed use. It is the owner's burden to demonstrate it is eligible to receive the requested variance. If the Planning Commission recommends approval of the variance, its recommendation shall include the conditions it recommends be placed on the variance. The recommendation shall include any conditions the Planning Commission determines are appropriate and reasonable to address anticipated impacts of the proposed use in order to protect the public health, safety, and welfare. The Planning Commission shall forward its recommendation, together with its supporting findings, to the Board of Appeals and Adjustments.

15.4.3.5 **Board of Appeals and Adjustments.** The Board of Appeals and Adjustments shall make the final decision regarding the requested variance after conducting a public hearing. The Board of Appeals and Adjustments shall not issue a variance unless it determines that the particular request satisfies the criteria set out in this Section. The Board of Appeals and Adjustments may impose such conditions on the variances it issues as it determines are reasonable. All such conditions must be directly related to and bear at least a rough proportionality to the impact the Board of Appeals and Adjustments determines will be created by the variance.

15.4.4 **Criteria.** The owner has the burden of demonstrating that sufficient practical difficulties exist, based on the following criteria, with respect to its property to justify the issuance of a variance. The Board of Appeals and Adjustments may not permit as a variance a use that is not allowed under this Ordinance for property in the zone where affected person's land is located and may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. The Board of Appeals and Adjustments shall consider the following criteria in determining whether to issue a variance:

- (A) The variance is in harmony with the general purposes and intent of this Ordinance;
- (B) The owner proposes to use the property in a reasonable manner not permitted by this Ordinance;
- (C) The plight of the owner is due to circumstances unique to the property that were not created by the owner;

- (D) If granted, the variance will not alter the essential character of the locality; and
- (E) Economic considerations are not the sole basis for the requested variance.

15.4.5 Recording. The Town Board will record, at the owners' expense, the variances it issues.

15.4.6 Expiration and Revocation. A variance shall expire and become void if the use or structure to which it relates is not substantially started within 12 months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The Board of Appeals and Adjustments may revoke a variance if it determines, after notice to the owner and conducting a public hearing, that any of conditions imposed on the variance have been violated.

15.5 Amendments. An amendment to the text of this Ordinance or of the land use map, including requests to rezone property, may only occur as provided in this Section.

15.5.1 Who May Initiate: An amendment to this Ordinance or the zoning map may be initiated by the Town Board, the Planning Commission, or by application of an affected property owner. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Town Board until it has received the Planning Commission's recommendations, or until at least 60 days after the proposed amendment was submitted to the Planning Commission.

15.5.2 Application. An owner seeking an amendment, including a request to rezone property, shall complete the Town's application form, together with the required application fee and escrow (if required), and the application must, at a minimum, contain all of the following information:

- (A) If the application involves a request to change district boundaries affecting an area of five acres or less, the name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the application relates;
- (B) The name of the applicant and of all owners of the property to which the application relates; and

(C) A description of the specific provisions of the Ordinance, or the proposed change in zoning, and proposed change.

15.5.3 Procedure. Applications for an amendment, including rezoning, shall comply, and shall be processed in accordance, with the following:

15.5.3.1 Zoning Administrator. An application for an amendment must be submitted to the Zoning Administrator. The Zoning Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fee. If an application is not complete, the Zoning Administrator shall provide the applicant written notice of what information is needed in order to make the application complete within 15 days of the Town's receipt of the application. The Zoning Administrator shall forward complete applications to the Planning Commission to conduct a hearing.

15.5.3.2 Town Initiated Amendments. An amendment proposed by the Planning Commission shall be forwarded in writing to the Town Board for review. If the Town Board authorizes the Planning Commission to proceed with the amendment, the Planning Commission shall hold a hearing on the proposed amendment in accordance with the Town Board's authorization and this Section. If the Town Board initiated the amendment, the Planning Commission shall hold a hearing on the proposed amendment in accordance with this Section.

15.5.3.3 Notice. At least ten days before the date of the hearing, notice shall be published in the Town's official newspaper. If the application involves a request to change district boundaries affecting an area of five acres or less, the notice shall also be mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the application relates at least ten days before the hearing. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.

15.5.3.4 Planning Commission. The Planning Commission shall conduct a public hearing on the proposed amendment and develop a recommendation to the Town Board regarding the proposed amendment. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. The

Planning Commission shall forward its recommendations regarding a proposed amendment to the Town Board for final action.

15.5.3.5 **Town Board.** The Town Board shall take action on the proposed amendment at a Town Board meeting. Approval of an amendment shall be by ordinance amending this Ordinance. If the amendment was initiated by application of an owner, the Town shall inform the property owner of the Town Board's decision.

15.5.4 **Limit on Similar Applications.** No application of an owner for an amendment to the text of the Ordinance or the Zoning Map shall be considered by the Town within a one-year period following a denial of such request, except that a new application may be allowed if, in the opinion of the Zoning Administrator, there is new evidence or a sufficient change of circumstances to warrant additional consideration of the proposal by the Town.

15.6 **Appeals.** As of the effective date of this Ordinance, no appeal shall be heard except in accordance with the following.

15.6.1 **Appealable Decisions:** Only alleged errors in an order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance are appealable to the Board of Appeals and Adjustments. The decisions of the Town Board and the Board of Appeals and Adjustments are final and are not appealable to the Board of Appeals and Adjustments. Recommendations of the Planning Commission are not final decisions and are not appealable to the Board of Appeals and Adjustments.

15.6.2 **Notice of Appeal:** In order to bring an appeal, a person shall file a written notice of appeal with the Town Clerk within 15 days of the date of the order or decision being appealed together with the required fee. The notice of appeal must, at a minimum, contain all of the following information:

- (1) The name, mailing address, and phone number of the person making the appeal;
- (2) The name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the appeal relates;
- (3) Describe the specific order or decision being appealed, the date of the order or decision, and identify the person who issued the order or made the decision;

- (4) A detailed explanation of the grounds for the appeal; and
- (5) Identify the specific relief being sought by the appeal.

15.6.3 Procedure: Notices of appeals shall comply, and shall be processed in accordance, with the following:

15.6.3.1 Town Clerk. The Town Clerk shall review the notice of appeal to determine if it contains all the required information and is otherwise complete. If a notice of appeal is not complete, the order or decision to which it relates is not appealable, or if it was not filed in a timely manner, the Town Clerk shall reject the notice of appeal. The Town Clerk shall provide a written notice of the rejection to the person that filed the appeal. The Town Clerk may consult the Board of Appeals and Adjustments and the Town Attorney as needed to make a determination as to whether a notice of appeal is complete, proper, and filed in a timely manner. The Town Clerk shall forward complete, proper, and timely notices of appeals to the Board of Appeals and Adjustments to conduct a hearing. The Town Clerk shall also provide a copy of the notice of appeal to the Planning Commission.

15.6.3.2 Notice. At least ten days before the date of the hearing, notice shall be published in the Town's official newspaper and mailed by first-class mail to the person bringing the appeal and to all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the appeal relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results. In scheduling the hearing, the Board of Appeals and Adjustments shall allow a reasonable time, not to exceed 60 days, for the Planning Commission to review and report on the notice of appeal.

15.6.3.3 Planning Commission. The Planning Commission may review and provide a report to the Board of Appeals and Adjustments on a notice of appeal. The Planning Commission is not authorized to conduct a hearing on the notice of appeal. If the Planning Commission develops a report it shall provide it to the Board of Appeals and Adjustments prior to the scheduled hearing.

15.6.3.4 Board of Appeals and Adjustments. The Board of Appeals and Adjustments shall conduct a public hearing on the notice of appeal. The appellant, or its authorized agent, is expected to attend the hearing to explain the appeal and to answer the Board of Appeals and Adjustments' questions. The Board of Appeals and Adjustments shall make the final decision regarding the matter being appealed. The Board of Appeals and Adjustments may reverse or affirm, wholly or partly, or modify the order or decision being appealed, and issue such orders, requirements, decisions, permits, or determinations, or provide such other relief as it deems appropriate. The Board of Appeals and Adjustments shall issue its decision in a written order which contains its findings. It shall provide a copy of its order to the appellant within 10 days of its issuance.

15.6.3.5 Judicial Review. Appeals from the final decisions of the Town Board or of the Board of Appeals and Adjustments may be brought as provided in Minnesota Statutes, section 462.361, provided such appeal is served on the Town and filed in District Court in Pine County within 30 days from the date of the decision being appealed.

15.7 Fees. This section sets out the general requirements for fees related to the administration of, and for zoning requests made pursuant to, this Ordinance. The amount of the fees shall be established by a fee schedule in a resolution or ordinance adopted by the Town Board.

15.7.1 Application Fee. Applicants shall be required to pay an application fee when submitting an application under this Ordinance. Application fees shall be in the amount determined by the Town Board and are intended to defray the administrative costs of processing requests. Application fees submitted as part of a complete application are not refundable, regardless of whether the application is approved, denied, or withdrawn;

15.7.2 Escrow. In order to defray the additional costs the Town may incur to process a request made under this Ordinance, applicants may also be required to reimburse the Town for all consulting costs it incurs related to the particular request. Consulting costs include, without limitation, all attorney, planner, and engineering fees incurred related to the request. An applicant may be required to escrow cash with the Town in the amount determined by the Town Board or Zoning Administrator from which the Town will reimburse itself for the consulting costs it incurs. The applicant remains responsible for all such costs and shall promptly escrow additional funds if the Town Board or Zoning Administrator determines

the existing escrowed amount will not be sufficient to fully reimburse the Town for its costs. Failure to promptly provide additional funds or to otherwise fully reimburse the Town for its consulting cost shall be a sufficient basis on which to delay the processing of a request or to deny a request.

15.7.3 Reimbursement in Full Required. If no escrow was required, or if the Town's costs exceed the escrowed amount, the Town will provide the applicant a written statement of the amount to be reimbursed. The stated amount shall be paid in full to the Town within 30 days from the date of the written statement. If the escrowed amount exceeds the Town's costs, the excess shall be refunded to the applicant. No permits shall be issued, no construction or development shall commence, and no use of the property pursuant to the zoning request shall be made until all fees and costs are paid in full. In the event that payment of costs is not made within a reasonable time after demand, the Zoning Administrator may take such steps as are available to the Town under law to collect the unreimbursed amounts, including collection costs. The steps the Town may take to recover its costs include, but are not limited to, taking actions as provided for in Article I Section 1.10 of this Zoning Ordinance, filing a lien upon the subject property or other property of the applicant pursuant to Minnesota Statutes, section 514.67, or taking such other action as may be deemed appropriate to obtain full reimbursement for the Town for all costs it incurs related to the application.

ARTICLE XVI PENALTIES AND ENFORCEMENT

16.1 Penalties and Enforcement.

16.1.1 General Offense: Any person who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a maximum fine or maximum period of imprisonment, or both, as specified by Minnesota Statutes, section 609.03. A violation of this Ordinance shall include, but is not limited to, any of the following: failing, neglecting, or refusing to comply with the provisions of this Ordinance; violating any condition placed on a permit or variance issued by the Town; exceeding the scope of a permit; or knowingly making any false statements in any document required to be submitted under the provisions of this Ordinance. Each day that a violation continues shall constitute a separate offense. In the event of a violation or a threatened violation of this Ordinance, the Town Board, in addition to other remedies, may institute appropriate criminal and/or civil actions or proceedings to prevent, prosecute, restore, restrain, correct or abate such violations or threatened violations. A criminal prosecution for a violation shall not be a bar to a civil remedy.

16.1.2 **Enforcement.** The Town Board, Zoning Administrator, and Town Board's appointed representatives have the authority to enforce this Ordinance by issuing notices of violation, cease and desist orders, citations, and taking or instituting such other lawful actions as may be needed to enforce this Ordinance and to bring a property into compliance. A violation of this Ordinance can occur regardless of whether a permit is required for a regulated activity. If a cease and desist order or stop work order is issued to stop an activity, the activity may not be resumed until the reason for the work stoppage has been completely satisfied and the cease and desist order lifted.

16.1.3 **Costs of Enforcement.** The cost of enforcement may be added to any fines or other penalties imposed as provided in Minnesota Statutes, section 366.01, subdivision 10. The Town may also collect such other reasonable costs it incurs to enforce this Ordinance by certifying the amount to the County Auditor as a service charge pursuant to Minnesota Statutes, section 366.012 for collection together with the property taxes levied against any real property the person or entity subject to the enforcement action owns in the Town. The Town will provide the property owner written notice of its intent to certify the amount on or before September 15. The amounts so certified to the County shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes.

16.1.4 **After the Fact Applications.** Any application for a permit or variance required under this Ordinance that is submitted to the Town after the use was initiated or the work has commenced shall be required to pay an after-the-fact application fee, which is a three times the permit or variance fee as indicated in the Town's current fee schedule.

This Ordinance shall be in effect as of the first day of publication after adoption.

Adopted on the _____ day of _____, 2026.

BY THE TOWN BOARD

Town Chairperson

STATE OF MINNESOTA)
) ss.
COUNTY OF PINE)

The foregoing was acknowledged before me this _____ day of _____, 2025, by _____, Town Chairperson of Windemere Township, and the foregoing was executed on behalf of Windemere Township as the free act and deed of the same.

Notary Public

NOTARY STAMP OR SEAL

THIS INSTRUMENT DRAFTED BY:
Town Law Center PLLP (JMH)
1250 Wayzata Boulevard E, Unit #1065
Wayzata, MN 55391
(612) 361-7041

