

**WINDEMERE TOWNSHIP
ORDINANCE NO. 06-22-01**

**AN INTERIM ORDINANCE ADOPTING A MORATORIUM ON CERTAIN
COMMERCIAL DEVELOPMENTS WITHIN CERTAIN AREAS OF
WINDEMERE TOWNSHIP**

WHEREAS, Windemere Township is a municipality for purposes of the Municipal Planning Act, Minnesota Statutes Chapter 462. Pursuant to the authority of the act, as well as other provisions of Minnesota Statutes, Windemere Township has exercised its authority to regulate the use of land in the Township through the passage and adoption of the Windemere Township Zoning Ordinance and other official controls; and

WHEREAS, the Town Board of Supervisors has authorized a study to be conducted by the Windemere Township Planning Commission and the Windemere Township Zoning Administrator of the Township's current zoning ordinance and any related official controls and plans to determine whether revisions, amendments, extensions, or any other changes to those ordinances would be necessary or desirable in order to protect the public health, safety and welfare in Windemere Township; and

WHEREAS, one reason for the study and the possible revision of the Township's current zoning ordinance is a notice that was provided by the Minnesota Department of Natural Resources (DNR) stating that it believes that the Township Zoning Ordinance is inconsistent with the Pine County Shoreland Management Ordinance and the State Shoreland Rules set forth in Minnesota Rules Chapter 6120, in that the Township Zoning Ordinance allows certain surface water oriented commercial developments to be created, expanded and/or established without the type of oversight and required permitting intended by State law; and

WHEREAS, the Town Board of Supervisors, with input from the Township Planning Commission, the Township Zoning Administrator, and outside consultants, has determined that the entirety of the Township Zoning Ordinance should be examined and studied to determine if revisions are necessary to better protect the land, water and air resources of the Township, to better process and review applications for structures and uses within the Township, and to best enforce the provisions of the ordinance in order to advance public health, safety and welfare of the Township's residents and those who use land, water and air resources of the Township; and

WHEREAS, Minnesota Statute § 462.355, subd.4, authorizes municipalities to adopt interim ordinances in order to protect the planning process, allowing a municipality to impose moratoriums that regulate, restrict, or prohibit any use, development or subdivision within their jurisdiction or a portion of their jurisdiction for a period not exceeding one year from the date the ordinance is effective, if certain prerequisites are met. Two of those prerequisites are that the municipality has authorized a study or that the municipality is conducting a study for the purpose of considering amendments to the municipality's official controls, including but not limited to its zoning ordinances; and

WHEREAS, the Windemere Town Board has authorized a study to be conducted, and the Township intends to conduct one or more public hearings relating to any proposed changes its official controls if recommended by and through the study referred to above; and

WHEREAS, in order to protect the planning process, the Windemere Board of Supervisors deems it necessary to adopt an Interim Ordinance placing a moratorium on the creation, establishment, or expansion of surface water oriented commercial uses and certain other commercial uses within the shoreland areas of the Township for a period of one year from the effective date of this Interim Ordinance, in order to permit the planning process to take place and to allow Township staff, the Planning Commission and the Town Board of Supervisors sufficient time to proceed in an orderly fashion to make any necessary changes, modifications and updates to the Township’s official controls.

NOW THEREFORE, THE BOARD OF SUPERVISORS OF WINDEMERE TOWNSHIP HEREBY ORDAINS AS FOLLOWS:

- Section 1.** Temporary Restrictions on certain commercial uses. For a period of one year from the effective date of this Interim Ordinance, or until such earlier time as the Windemere Town Board of Supervisors determines by resolution that the reasons for the interim ordinance no longer exist, no application for zoning, rezoning or any land use permit (including, without limitation, conditional use permits, variances, or any other permits) for a surface water-oriented commercial use or any use considered to be a commercial planned unit development under Chapter 6120 of Minnesota Rules shall be accepted, processed or approved by the Township.
- Section 2.** Temporary Restrictions on the expansion of certain existing commercial uses. For a period of one year from the effective date of this Interim Ordinance, or until such earlier time as the Windemere Town Board of Supervisors determines by resolution that the reasons for the interim ordinance no longer exist, no existing surface water-oriented commercial use or commercial planned unit development may expand, whether by permit or otherwise. No permit application that seeks to expand any such use shall be accepted, processed or approved by the Township.
- Section 3.** Geographic area of the restrictions. The restrictions on certain commercial uses set forth in sections 1 and 2 of this ordinance apply to all shoreland areas of the Township.
- Section 4.** Definitions. “Surface water-oriented commercial use” shall have the meaning given to it in the definitions section of the Windemere Township Zoning Ordinance. “Commercial planned unit development” shall have the meaning given to it in Minnesota Rules, Section 6120.2500, subp. 3a. “Shoreland” shall have the meaning given to it by Minnesota Rules, Section 6120.2500, subp 15. The word “expand” shall mean any increase in a dimension, size, area, volume or height; any increase in the area of use; any placement of a structure or part thereof where none existed before; any addition of a site feature such as a deck, platform, fence, driveway, signage, parking area, change in exterior lighting, pool or other structure; any improvement to the land that would allow the land to be more intensely developed or used; or any movement of operations to a new location on the property
- Section 5.** Exemptions. Any commercial business, entity or enterprise falling within the definitions of a surface water-oriented commercial use or a commercial planned unit development that has already been issued a permit by the Township for any construction, addition or expansion in a shoreland area is exempt from the restrictions in Sections 1 and 2 of this ordinance to the extent

such work is authorized by the issued permit. The Township Zoning Administrator may administratively approve minor alterations, administrative extensions, site plan modifications, and reductions in units, size or intensity of use of any existing exempt permits.

Section 6. Enforcement. Windemere Township may enforce any provision of this Ordinance by any and all means authorized by Windemere Township Ordinances and by State Statutes, by civil and/or by criminal means.

Section 7. Effective Date. This Ordinance shall take effect on the date of its passage and shall be in effect for a period of one year from the date thereof, unless earlier terminated by the Windemere Town Board of Supervisors.

Section 8. Severability. Every section, provision, or part of this Interim Ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

Ordinance moved by H. Kroening, seconded by M. Dunaski and adopted this 9th day of June, 2022.

BY THE WINDEMERE TOWN BOARD

Heidi Kroening, Chair
Windemere Town Board of Supervisors

Cindy Woltjer
Windemere Town Clerk