

DIVISION 25: SHORELAND OVERLAY DISTRICT

The land affected by the shoreland district (area within 1000 feet of the ordinary high water mark of Lake Belle Taine and Deer Lake) shall be included in the Shoreland Overlay District as shown on the zoning map and shall be subject to the rules of the noted zoning district, as well as the rules of the Shoreland Overlay District, whichever is more stringent, and/or unless as noted herein.

Section 25-010 Statutory Authorization.

This section establishing a Shoreland Management Overlay District is adopted pursuant to the authority conferred by the State of Minnesota in Minnesota Statutes, Chapter 103F, Minnesota Rules, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462 and for the purpose of: preserving and enhancing the quality of surface waters, preserving the economic and natural environmental values of shorelands, and providing for the wise utilization of waters and related land resources.

Section 25-020 Scope and Classification.

The Shoreland Overlay District shall overlay the zoning districts established by the Nevis Zoning Ordinance so that any parcel of land within shoreland shall also lie in an established zoning district. All uses shall be required to meet the requirements of the regulations for the zoning district in which such use is located, and, in addition, such uses shall be required to meet the requirements of this overlay district. No permits may be issued, and no approvals may be made until such necessary requirements have been met.

The public waters of Nevis have been classified as follows:

	<u>Lake:</u>	<u>Classification:</u>	<u>Lake I.D. Number</u>
1)	Deer Lake (Not in city limits, but the 1000' corridor includes property within the City)	Recreational Development Lake	29-90
2)	Lake Belle Taine	Recreational Development Lake	29-146
3)	Daisy Lake	Protected waters wetland	(See DNR and Wetlands Coordinator for more info)

The Recreational Development Management District is established to manage proposed development reasonably consistent with existing development and use; to provide for the beneficial use of public waters by the general public, as well as the riparian owners; to provide for a multiplicity of lake uses; and to protect areas unsuitable for residential and commercial uses from development.

Daisy Lake, a protected waters wetland, falls under some of the same provisions. This public water body is under the jurisdiction of the Hubbard County Wetland Coordinator and the Department of Natural Resources.

Section 25-030 Permitted Uses and Conditional Uses.

Permitted and conditional uses are as included in the zoning district classification for each underlying district. Permitted uses must meet the required criteria of both the zoning district and the Shoreland Overlay District. In cases where two standards exist, the stricter standard shall apply.

Section 25-035 Maintenance.

All structures shall be properly maintained in a clean and acceptable manner so not to constitute a menace to the public health, safety, convenience, general welfare, property values, and aesthetics.

All landscaping shall be properly maintained so as to preserve planting in a live state and free of noxious weeds.

Section 25-040 Minimum Lot Requirements and Setbacks.

The following requirements shall apply to all structures in the Shoreland Overlay District. Where shoreland standards are less restrictive than other requirements of this Ordinance, the stricter standards shall apply.

Setbacks: Structure setbacks in the Shoreland Overlay District are as follows:

1)	Shoreland lots served by Municipal Sewer	Riparian lots: (ft)/Nonriparian lots (ft)
	Structure setback from ordinary high water level (OHWL)	75*/75
	Structure including eaves, setback from side lot line	10/10
	Structure setback from un-platted cemetery	50/50
	Structure setback from Federal, State, or County Highway ROW	50/30
	Structure setback from ROW of other public roads	20/30
	Structure setback from top of bluff	30/30
	Driveway setback from OHWL	75/75
	Driveway setback from side lot line	5/5

*In the event a principal structure is to be built where the required setback is greater than existing principal structures, which must exist on adjoining lots on both sides of the proposed new, redeveloped, or principal dwelling addition, the front setback shall not be required to be greater than that which would be established by connecting a straight line (string line) between the forward most portions of the adjacent principal structures. In such instances however, structures may not be permitted in the bluff impact zone or closer than fifty (50') feet to the OHWL.

2)	Shoreland lots not served by Municipal Sewer	Riparian lots: (ft)/Nonriparian lots (ft)
	Structure setback from ordinary high water level (OHWL)	100/100
	Sewage treatment system setback from OHWL	75/75
	Structure, sewage treatment system and driveway setback from side lot line	10/10
	Structure setback from un-platted cemetery	50/50
	Structure setback from Federal, State, or County Highway ROW	50/30
	Structure setback from ROW of other public local roads or alleys**	20/30
	Structure setback from top of bluff	30/30
	Sewage Treatment system setback from ordinary high water level	75/75

**5 feet for garage when side loaded from an alley

Lot Width: All lot widths shall be measured at both the building line and at the ordinary high water level.

Shoreland lots served by Municipal Sewer

Structure	Riparian lots	Nonriparian lots
Single Family	75	75
Duplex	135	135
Triplex	195	190
Quad	255	245

Shoreland lots – NO Sewer

Structure	Riparian lots	Nonriparian lots
Single Family	150	150
Duplex	225	265
Triplex	300	375

Lot Depth: The minimum depth on all riparian lots created after the date of enactment of this Ordinance shall be 150 feet. Nonriparian lots shall be held to the zoning district classification requirements underlying the Shoreland Overlay District.

Lot Coverage: The maximum ground coverage percentage shall be 25% on all lots within the Shoreland District. This shall include all structures, paving, cement, and all other impermeable surfaces.

Maximum Building Height: All structures, except churches and agricultural structures, located on shoreland in residential districts shall not exceed thirty (30) feet in height.

Section 25-050 Guest Cottages (Allowed on riparian lots only).

One guest cottage will be allowed on lots meeting or exceeding the duplex lot area and width dimension requirements prescribed in Section 25-040 of this Ordinance, provided the following minimum standards are met:

- 1) A guest cottage may only be allowed as an accessory structure to a conforming single-family dwelling;
- 2) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;
- 3) A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height unless such structure is constructed above a pre-existing garage. In such cases, the maximum height shall be 25 feet;
- 4) A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
- 5) Municipal utilities must be utilized if available within 200 feet of the structure. If sewage treatment systems are to be provided with a guest cottage, such facilities shall utilize the same treatment system as the principal structure, except in cases where topographic features would result in practical difficulties during installation as determined by the Zoning Administrator.

Section 25-060 Design Criteria for Structures in Shoreland Areas

Structures. In shoreland areas, all structures must be placed, and all lots developed, in accordance with the following design criteria:

- 1) Highest water elevations - by placing the lowest floor, including basements, at least three feet above the highest known water level (Minnesota Department of Natural Resources has the most current information on levels);
- 2) Unplatted cemeteries and historic sites - no structure may be placed nearer than 50 feet from the boundary of an unplatted cemetery protected under Minnesota Statutes, section 307.08, unless necessary approval is obtained from the Minnesota Office of the State Archaeologist. 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.
- 3) Steep slopes - local government officials must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles and other

- 4) Bluff impact zones - structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

Stairways, Lifts and Landings: Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down the bluffs and steep slopes to shore areas, and must meet the following design requirements:

- 1) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments if specifically authorized in a conditional use permit;
- 2) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be allowed for commercial properties, public open-space recreational properties, and planned unit developments if specifically authorized in a conditional use permit;
- 3) Canopies or roofs are not allowed on stairways, lifts or landings;
- 4) Stairways, lifts or 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;
- 5) Stairways, lifts or landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public waters assuming summer, leaf-on conditions, whenever practical; and
- 6) Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed as a conditional use for achieving access to shore areas, provided that the dimensions and performance standards of this section, and the requirements of the State Building Code, Chapter 1340, are complied with.

Accessory Structures and Facilities. All accessory structures and facilities, except those that are water-oriented, must meet or exceed structure setback standards. Each residential lot may have one water-oriented accessory structure or facility located closer to public waters than the structure setback if all of the following standards are met:

- 1) The structure or facility must not exceed ten feet in height; exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
- 2) The setback of the structure or facility from the ordinary high water level must be at least ten feet;
- 3) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks, color, or other means acceptable to the City of Nevis, assuming summer, leaf-on conditions;
- 4) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
- 5) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;
- 6) Water-oriented accessory structures used solely for water craft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline;
- 7) Any accessory structure or facilities not meeting the above criteria, or any additional accessory structures or

Decks: Except as provided above, decks must meet the structure setback standards. Decks are allowed to structures that do not meet the minimum setback from the ordinary high water mark, or to those structures which minimally meet the setbacks from the ordinary high-water mark, without variance, provided that:

- 1) The structure existed prior to the date of enactment of this ordinance;
- 2) A thorough evaluation of the property and structure reveals no reasonable location for a deck which meets or exceeds the setback from the ordinary high-water level;
- 3) The deck encroachment toward the ordinary high water level does not exceed fifteen (15) percent of the existing setback of the structure from the ordinary high water level, or does not encroach closer than thirty (30) feet from the ordinary high water level, whichever is more restrictive; and,
- 4) The deck is constructed primarily of wood, and is not roofed or screened.
- 5) The deck shall be regulated as either pervious or impervious as determined by the Zoning Administrator.

Section 25-070 Vegetative Alterations

Intensive vegetative clearing within shore and bluff impact zones and on steep slopes is not allowed with the following exceptions:

- 1) Intensive vegetative clearing for forest land conversion to another use may be allowed as a conditional use, with a conditional use permit, provided that such clearing is not undertaken in shore or bluff impact zones or on steep slopes. Such Conditional Use Permit shall only be issued upon the completion of an erosion and sedimentation plan prepared by the Hubbard Soil and Water Conservation District and approved by the City;
- 2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and brush and cutting, pruning and the trimming of trees is allowed, without a permit, in order to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways, lifts and landings, picnic areas, access paths, livestock watering areas, and beach and water craft areas provided that:
 - a. Vegetation alterations shall in no case exceed 50% of the brush and 25% of the trees within the shore and bluff impact zones or on steep slopes. For the purpose of this section, trees less than four (4) inches in diameter as measured at a height of four (4) feet from the ground shall be considered brush.
 - b. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced; and,
 - c. Vegetative alterations necessary for the construction of structures, sewage treatment systems, or roads and parking areas regulated by Section 25-090 of this Ordinance are allowed without a separate permit,
 - d. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards,

Section 25-080 Topographic Alterations/Grading and Filling

Topographic alterations shall require a Conditional Use Permit from the City with the following exceptions:

- 1) The cumulative movement of less than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones may be undertaken without a Permit;
- 2) The cumulative movement of less than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones may be undertaken without a Permit;

- 3) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, or driveways under validly issued permits for these facilities do not require the issuance of a separate Permit. However, the grading and filling standards prescribed in this Section must be incorporated in the issuance of said permits;
- 4) Topographic alterations necessary for the construction of roads or parking areas are allowed provided the requirements prescribed in Section 25-110 of this Ordinance are satisfied;
- 5) Excavation where the intended purpose is connection to public water such as boat slips, canals, lagoons, and harbors are allowed only with a Conditional Use Permit issued by the City. Such Conditional Use Permit shall only be granted after the Commissioner of Natural Resources has approved the proposed connection to public waters;
- 6) No permits for grading and filling, building, sanitary sewer installation, Conditional Uses or Variances shall be issued unless the following conditions are satisfied:
 - a. Grading or filling in any Type 2,3,4,5,6,7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the functional qualities of the wetland, including: sediment and pollutant trapping and retention; storage of surface runoff to prevent or reduce flood damage; fish and wildlife habitat; recreational use; shoreline or bank stabilization; and noteworthiness, including special qualities such as historic significance, and critical habitat for endangered plants and animals. This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant is responsible for contacting the local government official administering the Minnesota Wetland Conservation Act. The applicant will be so advised by the Zoning Administrator;
 - b. Alterations must be designed and conducted in a manner that ensures that 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 vegetative cover must be established as soon as possible;
 - d. Methods to minimize soil erosion and to trap sediments before they reach any surface water features must be used;
 - e. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the Hubbard Soil and Water Conservation District and the United States Natural Resource Conservation Service;
 - f. Fill or excavated material must not be placed in a manner that creates an unstable slope;
 - g. Fill or excavated materials shall not be placed in such a manner as to create finished slopes of 30 percent or greater. Plans to place fill or excavated material on steep slopes must be approved by the Hubbard Soil and Water Conservation District to ensure continued slope stability;
 - 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 of Natural Resources under Minnesota Statutes, Section 103G;
 - j. Alterations of topography may only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
 - k. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.
- 7) Extractive uses are not allowed without the issuance of a Conditional Use Permit by the City. A Conditional Use

Permit may be issued with the following conditions, provided that the underlying Zoning District requirements are satisfied:

- a. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetative and topographic alterations. The plan must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end;
- b. Processing machinery must be located consistent with setback standards for structures from the ordinary high water level of public waters and from bluffs.

Section 25-090 Placement and Design of Roads, Driveways, Parking Areas and Private Access Paths on Riparian Lots.

The following activities require a Conditional Use Permit from the Nevis City Council:

- 1) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. All roads and parking areas shall be designed and constructed to minimize and control erosion to public waters consistent with the technical guides of the Hubbard Soil and Water Conservation District, or other technical materials;
- 2) Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff or shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, but must be designed to minimize adverse impacts;
- 3) Public and private water craft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided that the vegetative screening and erosion control conditions of this section are met. For private facilities, the grading and filling provisions prescribed in Section 25-080 of this Ordinance must be met;
- 4) Boardwalks are the required alternative for achieving access to shore areas across delineated wetlands. Earthen fill strip must be authorized by a variance appeal to the Board of Adjustment and Appeals and must comply with the Minnesota Wetland Conservation Act. Boardwalks are allowed as a Conditional Use provided that the following conditions are met.
 - a. Boardwalks must not exceed four feet in width on residential lots. Wider boardwalks may be used for commercial properties, public open-space recreational properties, and planned unit developments if specifically authorized in a conditional use permit;
 - b. Landings for boardwalks on residential lots must not exceed 36 square feet in area. Landings larger than 36 square feet may be allowed for commercial properties, public open-space recreational properties, and planned unit developments if specifically authorized in a conditional use permit;
 - c. Canopies or roofs are not allowed on boardwalks or landings;
 - d. Boardwalks may be either constructed above the ground on posts or pilings, or placed onto the ground;
 - e. Boardwalks should be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public waters assuming summer, leaf-on conditions, whenever practical; and
 - f. Every effort must be made to use nontoxic materials in construction of boardwalks across wetlands;
 - g. If required, a U.S. Army Corps of Engineers Permit has been obtained, and any other agency permits required.

Section 25-100 Agricultural Use Standards

The agricultural use standards for Shoreland areas are contained below:

- 1) The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level;

- 2) 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 Natural Resources Conservation Service.
- 3) Animal feedlots are not allowed per this Ordinance. Feedlots as defined by the Minnesota Pollution Control Agency, where allowed by reason of legal nonconformance (grand fathered feedlots), must meet the following standard:
 - a. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.
- 4) Use of fertilizer, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.

Section 25-120 Standards for Commercial, Industrial, Public, and Semipublic uses

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

- 1) In addition to meeting impervious coverage limits, setbacks, and other zoning standards presented elsewhere, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
- 2) Uses that require short-term water craft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need;
- 3) Uses that depend on patrons arriving by water craft may use signs and lights to convey needed information to the public, subject to the following general standards:
 - a. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
 - b. Signs may be placed, when necessary, within the short 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 feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters;
 - c. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights;
 - d. Other sign regulations may apply depending on the zoning district as noted in Division 80 - Sign Regulations.

Section 25-130 Storm Water Management

- 1) The following are general standards:

- a. When possible, existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter, and retain Storm water runoff before discharge to public waters; PAGE 21
- b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site;
- c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff 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 man-made materials and facilities.

2) The following are specific standards:

- a. Impervious surface coverage of lots must not exceed 25 percent of the lot area;
- b. When constructed facilities are used for storm water management, they must be designed and installed consistent with the field office technical guide of the local soil and water conservation district;
- c. Newly constructed storm water out falls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

