

DIVISION 95: ADMINISTRATION

Section 95-010 Zoning Administrator

The City Council shall appoint a zoning administrator. The zoning administrator shall perform the following duties:

- 1) Enforce and administer the provisions of this Ordinance;
- 2) Issue permits for permitted uses and/or activities which comply with the provision of this Ordinance;
- 3) Maintain permanent and current records of this ordinance, including but not limited to maps, amendments, variances and conditional uses;
- 4) Receive, file, and forward, along with recommendations, all applications for appeals;
- 5) Institute in the name of the City, any appropriate actions or proceedings against a violator as provided for; and,
- 6) Serve as ex-officio, non-voting member of the Planning Commission.

Section 95-020 Planning Commission

There is hereby created a Planning Commission consisting of five (5) members appointed by the City Council from among the property owners of the City of Nevis. The members of the Planning Commission shall be appointed by the City Council consistent with the bylaws as adopted by the Nevis City Council. The Planning Commission now in existence shall continue as presently constituted.

Section 95-030 The Board of Adjustment and Appeals

The Nevis City Council shall serve as the Board of Adjustment and Appeals. The Board of Adjustment and Appeals shall act upon all questions as they may arise in the administration of this Ordinance.

Section 95-040 Variances and Appeals

- 1) The Planning Commission shall order the issuance of variances from the terms of any official controls including restrictions placed on non-conformities, with City Council approval. All such variances shall be granted in accordance with M.S. Chapter 462. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control in cases where there are practical difficulties in the way of carrying out the strict letter of any official control, and when the terms of the variance are consistent with the Comprehensive Land Use Plan. The Planning Commission shall consider the criteria set forth below when hearing and making recommendation upon a variance request:
 - a. Has the applicant demonstrated a practical difficulty?
-Practical Difficulty: the property cannot be put to a reasonable use under conditions allowed by the Zoning Ordinance. Economic considerations alone do not constitute Practical Difficulties.
 - b. Are there exceptional circumstances unique to this property, which were not created by the land owner?
 - c. Can the variance be granted without upsetting the purpose and intent of the Zoning Ordinance?
 - d. Can the variance be granted without altering the essential character of the surrounding area?
- 2) The Planning Commission must make an affirmative finding on all of the four criteria listed above in order to make a recommendation to the Board of Adjustment and Appeals to grant a variance. The applicant for a variance has the burden of proof to show that all of the criteria listed above have been satisfied. A variance shall not be granted for a use that is not permitted under this ordinance.
- 3) The Commission may impose conditions upon a variance that relate to the purposes and objectives of this Ordinance. If conditions are imposed, the variance shall not be effective until the conditions are fully complied with. A conditional variance shall be in effect only as long as the condition is complied with. If a condition is not complied with, the variance may be revoked and the City may pursue the enforcement remedies set forth in Section 95-100 herein.

- 4) Procedure for applying for a Variance:
- a. An applicant desiring a variance shall fill out and submit to the Nevis Zoning Administrator a completed Variance Request form, copies of which are available from the Zoning Administrator. The appropriate fee shall be paid in order for the application to receive consideration by the Planning Commission.
 - b. The Zoning Administrator shall make a recommendation, in writing, to the Planning Commission, and forward the request for their review.
 - c. The Planning Commission shall hold a public hearing in accordance with M.S. 462 and the provisions of this Ordinance.
 - d. The Planning Commission will forward their recommendation to the Board of Adjustment and Appeals within sixty (60) days after receiving the application. If it recommends the variance, the Commission may impose conditions (including time limits) it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.
 - e. The Board of Adjustment and Appeals will act upon the request within 30 days of receipt from the Commission.
 - f. An application for a variance shall not be resubmitted for a period of six months following denial.

5) Procedure for filing an Appeal:

- a. An appeal of an administrative decision made in the enforcement of this Ordinance shall be made by filling out and submitting to the Zoning Administrator an Application for Appeal, which is available from the Zoning Administrator. The appropriate fee shall be paid in order for the application to receive consideration by the Board of Adjustment and Appeals. Such appeal shall be heard by the Board of Adjustment and Appeals within sixty (60) days of the date that such complete application is submitted to the Zoning Administrator.

Section 95-050 Conditional Use Permits

Any use listed as a conditional use in this Ordinance shall be permitted only upon application to the Zoning Administrator, review and recommendation of the Planning Commission, and approval and issuance of a Conditional Use Permit by the Nevis City Council. The applicant for a Conditional Use Permit shall fill out and submit to the Zoning Administrator an Application for Conditional Use Permit. When such permit is completed and submitted, the appropriate fee shall be paid in order for the application to be considered complete and to receive consideration by the Planning Commission. A thorough site evaluation shall be conducted by the Zoning Administrator and the Planning Commission prior to consideration of the permit.

- 1) In considering the granting of any Conditional Use Permit throughout the city, the Planning Commission and City Council shall evaluate the effect of the proposed use upon:
 - a. The maintenance of the public health, safety and welfare;
 - b. The location of the site with respect to existing and proposed access roads;
 - c. Its compatibility with adjacent land uses;
 - d. Its compatibility with the intent of the zoning district in which such use is proposed;
 - e. Its compatibility with the objectives of this Ordinance and its consistency with the Comprehensive Plan.
- 2) In considering the granting of any Conditional Use Permit in shoreland areas, the Planning Commission and City Council shall evaluate the effect of the proposed use upon:
 - a. The prevention and control of water pollution, including sedimentation and nutrient loading;
 - b. Existing topography and drainage features and vegetative cover on the site;
 - c. The erosion potential of the site based upon the degree and direction of slope, soil type and existing vegetative cover
 - d. The need for the proposed use for a shoreland location;

- e. The amount of liquid waste to be generated and the adequacy of the proposed sewage treatment system;
 - f. The visibility of structures and other facilities as viewed from public waters;
 - g. Adequacy of the site for water supply and on-site sewage treatment systems if city utilities are not available;
 - h. The types, uses and numbers of watercraft that the project will generate in relation to the suitability of public waters to safely accommodate watercraft.
- 3) Upon consideration of the factors listed above, the Planning Commission may attach such conditions, in addition to those required elsewhere in this Ordinance, it deems necessary for the furtherance of the purposes set forth in this Ordinance. Such conditions attached to Conditional Use Permits may include, but shall not be limited to:
- a. Increased yards and setbacks;
 - b. Periods and/or hours of operation;
 - c. Minimum number of off-street parking spaces;
 - d. Type of construction;
 - e. Deed restrictions;
 - f. Landscaping and vegetative screening;
 - g. Type and extent of shore cover;
 - h. Specified sewage treatment and water supply facilities;
 - i. Location of signs, parking, docks and piers;
 - j. Any other reasonable requirements necessary to fulfill the purposes and intent of this Ordinance.
- 4) An applicant for a Conditional Use Permit may be required to furnish the Planning Commission, in addition to the information required for the building or other permit, the following:
- a. A plan of the proposed project area showing contours, soil types, ordinary high water level, ground water conditions, bedrock, slope, and vegetative cover;
 - b. Location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers, open spaces and vegetative cover;
 - c. Plans of buildings, sewage treatment facilities, water supply systems, and arrangements of operations;
 - d. Specifications for areas of proposed grading, filling, dredging, lagooning, or other topographic alterations;
 - e. Other pertinent information necessary to determine if the proposal meets the requirements and intent of this ordinance.
- 5) The Planning Commission and the City Council, in evaluating each conditional use applicant may request the Hubbard Soil and Water Conservation District to make available expert assistance to assist in the evaluation and consideration of such application.
- 6) Procedure for applying for a Conditional Use Permit:
- a. An applicant desiring a Conditional Use Permit shall fill out and submit to the Nevis Zoning Administrator a completed Conditional Use Permit Request form, copies of which are available from the Zoning Administrator. The appropriate fee shall be paid in order for the application to receive consideration by the Planning Commission.
 - b. The Zoning Administrator shall make a recommendation, in writing, to the Planning Commission, and forward the request for their review.
 - c. The Planning Commission shall hold a public hearing in accordance with M.S. 462 and the provisions of this Ordinance.

- d. The Planning Commission will forward their recommendation to the City Council within sixty (60) days after receiving the application. If it recommends the Conditional Use Permit, the Commission may impose conditions it considers necessary to protect the public health, safety and welfare.
- e. The City Council will act upon the request within 30 days of receipt from the Commission. If it grants the Conditional Use Permit, the City Council may impose conditions (including time limits) it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.
- f. If a time limit or periodic review is included as a condition by which a Conditional Use Permit is granted, the Conditional Use Permit may be reviewed at a public hearing with notice of said hearing published at least ten (10) days prior to the review; it shall be the responsibility of the Zoning Administrator to schedule such public hearings and the owner of land having a Conditional Use Permit shall not be required to pay a fee for said review. A waiver from a public hearing for annual review of Conditional Use Permits may be granted at the discretion of the City Council.
- g. An application for a Conditional Use Permit shall not be resubmitted for a period of six months following denial.
- h. Conditional Use Permits issued shall be recorded in the office of the Hubbard County Recorder as per Minnesota statutes.

7) Existing Conditional Use Permits: The Zoning Administrator shall maintain a record of all Conditional Use Permits issued including information on the use, location, and conditions imposed by the City Council, time limits, review dates, and such other information as may be appropriate. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the original Conditional Use Permit, or existing uses requiring a Conditional Use Permit but not previously issued, shall require a new or an amended Conditional Use Permit and all procedure shall apply as if a new permit were being issued. Such new or amended permit shall be classified as major or minor, as determined by the Zoning Administrator. Major and minor permit modifications shall be further subject to and processed as follows:

- a. Major Permit Modifications:
 - 1. Any modification that exceeds 20% of an existing use, impervious surface, or any other existing quantifiable standard shall be considered a major modification.
 - 2. Qualifications: Any permit modification not classified or qualifying as major shall be classified as a minor.
 - 3. Applications for substantial modification of uses that occurred prior to the establishment of the Nevis Zoning Ordinance and which require a Conditional Use Permit according to this Ordinance shall require a major permit modification according to the requirements of this section.
 - 4. Procedure: Major permit modifications shall be processed according to all provisions of this section and shall be subject to all requirements and standards of this Ordinance.
- b. Minor Permit Modifications: In addition to other considerations noted above, minor permit modifications shall meet the following criteria:
 - 1. All sites must be legal parcels of record at the time of application and shall not contain more than one principal use on the parcel.
 - 2. All applications for permit modification shall be complete and in full compliance with all the requirements of this Ordinance. All applicable fees shall be paid.
 - 3. All permit modification proposals shall meet or exceed the current standards of all applicable codes, ordinances, and policies and shall be free of any variances from those standards.
 - 4. Applications for modification of existing structures, infrastructure or other physical characteristics of a site upon which were or were not granted a conditional use permit prior to or after the establishment of the Nevis Zoning Ordinance; may be approved administratively as a minor permit modification, provided all requirements of the current standards of this Ordinance are met for the expansion area.

5. Intensification of an existing conditional use may be allowed as a minor permit modification provided the intensification does not result in a net increase of greater than 20% of the existing use, impervious surface of the existing parcel, or any other existing quantifiable standard.

Section 95-060 Amendments

The City Council may adopt amendments to the zoning ordinance and zoning map in relation to land uses 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 of the community as reflected in the City Land use Plan. The procedure for amendments to this Ordinance shall be as follows:

- 1) An amendment may be initiated by a property owner, the Planning Commission or the City Council. Property owners wishing to initiate an amendment shall fill out an Application for Amendment form, available from the Zoning Administrator. Such application shall be filled out and submitted to the Zoning Administrator together with the appropriate fee;
- 2) The applicant shall appear before the Planning Commission to answer any questions that Commission members may have concerning the amendment request;
- 3) A public hearing on the amendment request shall be conducted by the Planning Commission within sixty (60) days following such initial meeting. The public hearing shall be conducted in accordance with M.S. 462;
- 4) The Planning Commission shall make its recommendation to the City Council after the proceedings of this public hearing. The applicant shall be notified in writing of the recommendation that shall be forwarded to the City Council;
- 5) The City Council shall consider the recommendation of the Planning Commission within thirty (30) days after the public hearing is conducted. The applicant shall be notified in writing of the action of the City Council.
- 6) No application of a property owner for an amendment to the text of the Ordinance or the zoning map shall be considered by the Planning Commission within the one-year period following a denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

Section 95-070 Building and other Permits

Permits shall be required for the following permitted activities: building construction, alteration or demolition, signs, sewage treatment systems, and grading or filling in shoreland areas.

- 1) All contractors, subcontractors, builders or other persons having charge of the erection, alteration, moving, change or remodeling of any building or structure shall apply for a building permit from the Nevis Zoning Administrator before beginning or undertaking such work. If required, the Zoning Administrator will forward the application to the Building Inspector for review. After the appropriate fee has been paid, and if the proposed work does not conflict with any portion of the Nevis Zoning Ordinance or Building Code, the permit shall be granted. If the permit is not granted, the reasons for such denial will be provided, in writing, to the applicant.
- 2) Permission for the installation of sewage treatment systems or grading and filling in shoreland areas must also be obtained from the City of Nevis Public Works Department and the Zoning Administrator before such installation or shoreland alteration has begun.

- 3) Approval for the construction or placement of signs must be obtained from the Zoning Administrator before such construction or placement shall be allowed.

All building, sign, sanitary, excavation and related permits shall expire one year from the date of approval. A request for an extension may be considered by the Board of Adjustment and Appeals pursuant to M.S. Chapter 462.

Section 95-080 Vacations

Statutory cities may abandon ownership or control over all or any part of land they have set aside, dedicated or used as streets or alleys. The city may also vacate any publicly owned utility easement or boulevard reserve. The procedure is as follows:

- 1) The council may initiate the action by resolution, or a majority of property owners who abut the land to be vacated may petition for this action. Such petitions need signatures from both a majority of landowners and the owners of at least 50 percent of the land area.
- 2) Upon receiving the resolution from the Council or a request from property owners, the Planning Commission holds a public hearing on the proposal following two weeks published and posted notice. Written notice must be given to affected property owners at least 10 days before the hearing.
- 3) If the land to be vacated abuts or terminates on any public water, the Commissioner must be notified ten (10) days prior to the public hearing.
- 4) The Planning Commission submits their recommendation to the Council and the Council then either passes a resolution vacating the property or denies the request. Vacating a street or alley must be in the public interest.
- 5) The vacation must be recorded with the Hubbard County Recorder's office and also presented to the County Auditor.
- 6) When the city vacates a street, the owner of abutting property holds title to the land in the former street to the centerline, free of easements either in favor of the public or owners of other property abutting on the street.

Section 95-090 Public Notice and Hearing Requirements

- 1) In addition to the procedures described in preceding sections of this Ordinance, all Conditional Use Permit requests, variance requests, requests for amendments, and preliminary plat approval shall be reviewed at a public hearing conducted at least ten (10) days following official public notification including publication in the official newspaper of the City of Nevis and notification of all property owners within the following distances from affected property when such notice is applicable: In the case of variances, Conditional Use Permits and preliminary plats, all property owners within 350 feet of the property must be notified; In the case of amendments to official controls which involve changes in district boundaries of five acres or less, all owners of property within 350 feet must be notified.
- 2) The Commissioner of Natural Resources must also receive at least ten (10) days notification of hearings to be conducted concerning applications for Conditional Use Permits, variances, amendments or preliminary plat approvals, in shoreland areas. Notice of hearings to consider subdivisions must include copies of the proposed preliminary plat.
- 3) The Commissioner must also receive a copy of approved Conditional Use Permits, variances, zoning amendments and final plats in shoreland areas, postmarked within ten (10) days of final action.

Section 95-100 Enforcement and Penalties

- 1) The Administration of the City of Nevis and or the Zoning Administrator or his or her agent shall have the right, at all reasonable times, to enter upon private property for the purpose of administration or enforcement of this Ordinance. This includes the right to conduct investigations, sampling, test borings and other actions necessary for the enforcement of this Ordinance.
- 2) In the event of violation or threatened violation of this Ordinance, the City Council, in addition to other remedies including prosecution under Section 95-100 of this Ordinance, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the Nevis City Attorney to institute such action.
- 3) Any person, firm or corporation who shall violate any of the provisions herein, or who shall fail to comply with any of the provisions herein, or who shall make any false statement in any document required to be submitted under such provision, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by such penalties and fines provided by law. Each day that the violation continues shall constitute a separate offense.

Section 95-110 Fees

In order to defray the administrative costs associated with the processing of applications for building and related permits, Conditional Use Permits, variance requests, amendments, appeals, and subdivision plat approval, a schedule of fees has been adopted by the Nevis City Council. The schedule of fees shall be posted at the Nevis City Hall, and may be altered or amended only by Resolution of the Nevis City Council.

City of Nevis, State of Minnesota, County of Hubbard

This agreement was passed unanimously by the Nevis City Council on June 21, 2021.

Mayor, Jeanne Thompson

ATTEST:

Dawn M. Veit Administrator and Notary Public