

DIVISION 10: GENERAL PROVISIONS

Section 10-010 Title and Application

This ordinance shall be known, cited, and referred to as the Nevis Zoning Ordinance. It is an Ordinance regulating the use of land in the City of Nevis by districts, including the regulation of the location, size, use and height of buildings, the placement of buildings on lots, and the density of population for the purpose of promoting the public health, safety, order, convenience and general welfare of Nevis.

Section 10-020 Intent and Purpose

This Ordinance, adopted pursuant to the provisions of the Minnesota Statutes Annotated, Section 462.357, is intended to serve the following purposes:

- 1) Protecting the public health, safety, comfort, convenience and general welfare of the city;
- 2) To guide the future growth and development of the city in accordance with the Land Use Plan adopted by the city council;
- 3) Protecting and preserving the natural environment of the city;
- 4) To protect and conserve the value of land through the city and the value of buildings appropriate to the various districts established by this Ordinance;
- 5) To provide adequate light, air, and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding and undue congestion of land and population;
- 6) To bring about the gradual conformity of the uses of land and buildings throughout the city through the zoning plan set forth in this Ordinance, and to minimize the conflicts among the uses of land buildings;
- 7) To promote the most beneficial relation between the uses of land and buildings and the circulation of traffic throughout the city;
- 8) To provide a guide for public policy and action in the efficient provision of public facilities and services and for private enterprises in building development, investment and other economic activity relating to uses of land and buildings throughout the city; and,
- 9) For the purpose of preserving and enhancing the quality of surface waters, preserving the economic and natural environmental values of shoreland, and providing for the wise utilization of waters and related land resources.

Section 10-030 Rules

The language contained in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- 1) The singular number includes the plural and the plural the singular.
- 2) The present tense includes the past and future tenses, and the future the present.
- 3) The word "shall" is mandatory, and the word "may" is permissive.
- 4) The masculine gender includes the feminine and neuter genders.
- 5) Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as set forth in such definition.

6) All measured distances expressed in feet shall be to the nearest tenth of a foot.

7) In the event of conflicting provisions, the more restrictive provisions shall apply.

Section 10-040 Definitions

The following words and terms, whenever they occur in this Ordinance, we defined as follows:

Accessory Structure or Use: A structure or use of secondary or subordinate use to the principal structure or use, located on the same lot.

Administrator: The administrator of the Nevis Zoning Ordinance or its authorized agent or representative.

Agricultural Building or Structure: Any building or structure, existing or erected which is used principally for agricultural purposes, with the exception of dwelling units.

Agricultural Use: The use of land for the growing and / or production of field crops, tree farms and horses and ponies.

Apartment: a room or suite of rooms which is designed for a residence by a single family, or a group of individuals living together as a single family unit, or an individual, and is equipped with cooking facilities. Includes a dwelling unit and an efficiency unit. This includes any unit in buildings with more than two (2) dwelling units.

Apiary: The assembly of one (1) or more colonies of honeybees at a single location.

Automobile Body Shop: A building or any portion thereof designed primarily for major reconditioning of worn or damaged motor vehicles or trailers; collision service including body, frame, or fender straightening or repair, and overall painting of vehicles.

Automobile Service Station: A building or any portion thereof designed primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles.

Basement: Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Bed and Breakfast: A single family dwelling in which six or fewer transient guest rooms are rented on a nightly basis for a period of less than a week and where at least one meal is offered in connection with the provision of sleeping accommodations only.

Beekeeper: A person who owns or has charge of one (1) or more colonies of honeybees.

Beekeeping Equipment: Anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

Block: An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a stream or water body.

Bluff: A topographic feature such as a hill, cliff, or embankment having the following characteristics:

- 1) Part or all of the feature is located within a Shoreland area;
- 2) The slope rises at least 25 feet above the ordinary high water level of the water body
- 3) The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high water level averages thirty (30) percent or greater;
- 4) The slope drains toward the water body.

An area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff.

Bluff Impact Zone: A bluff and land located within 20' from the top of the bluff.

Board of Adjustment and Appeals: The Nevis Board of Adjustment as appointed by the Nevis City Council.

Boarding (Lodging) Housing: A building other than a hotel or motel where, for compensation and by prearrangement for definite periods, meals or lodging are provided to three (3) or more persons, but not to exceed ten (10) persons.

Boathouse: A water-oriented accessory structure used solely for the storage of boats or boating equipment.

Boulevard: The portion of the street right-of-way between the curb line and the property line.

Boundary Line Realignment: Any subdivision adding property to an adjacent parcel, 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 provision or portion of the Land Use Plan or these regulations.

Building: Any structure having a roof or other covering, built for the support, shelter or enclosure of persons, animals, cattle or movable property of any kind, and includes any structure.

Building Height: The vertical distance measured from the average grade of a building line to the top, to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the distance of the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on pitched or hip roof.

Building Line: A line parallel to a lot line or the ordinary high water level, at any store level of a building and representing the minimum distance beyond which all or any part of the building may not extend.

Butt Lot: A lot at the end of a block and located between two corner lots.

Church: A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building and accessory uses, is maintained and controlled by a religious body organized to sustain public worship.

City: The City of Nevis

City Council: The Nevis City Council.

Clear Cuttings: The removal of an entire stand of trees.

Clinic: A place where medical, dental, optometric, psychiatric, or nursing care is finished to persons on an out-patient basis by one or more licensed professionals.

Club or Lodge: A non-profit association of persons who are bona fide members paying annual dues, with the use of premises being restricted to members and their guests.

Colony: An aggregate of honeybees consisting principally of workers, but having, when perfect, one (1) queen and at times drones, brood, combs, and honey.

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

Commissioner: The Commissioner of the Department of Natural Resources.

Conditional Use: A land use of development as defined by ordinance that may be allowed only after an in-depth review procedure and with appropriate restrictions or conditions as provided by this zoning ordinance upon a finding that standards and criteria stated in this Ordinance will be satisfied.

Condominium: A multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of the Minnesota Condominium Law, Minnesota Statutes, and Section 515.A.101 to 515.A4-118.

Contour Map: A map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

Day Care Facilities: A facility licensed by the State Department of Human Services, public or private, which for gain or otherwise regularly provides one or more persons, as defined by the State Human Services Licensing Act, with care, training, or supervision habilitation, rehabilitation or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, developmental achievement centers for children, day training and rehabilitation services for adults, day treatment programs, adult day care centers, and day services.

Deck: A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use, structure or site, and at any point extending more than thirty (30") inches above the ground. A deck is defined as an impervious structure, unless it is a determined to qualify as pervious by the Zoning Administrator.

Duplex, Triplex and Quad: Dwelling structures on a single lot having two, three and four units respectively being attached by common walls and each unit having separate sleeping, cooking, eating, living and sanitation facilities.

Dwelling: Any structure, or portion of a structure, used exclusively for residential purposes, including one-family, two-family and multiple family dwellings, but not including rental or timeshare accommodations such as motel, hotel and resort rooms and cabins.

Dwelling Site: A designated location for residential use by one or more persons using temporary or movable shelters, including camping and recreational vehicle sites.

Dwelling Unit: A room or group of rooms located within a dwelling to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.

Easement: A grant by a property owner for a specified use of land by a corporation, the public or specified persons.

Environmental Assessment Worksheet (EAW): a brief document, in worksheet format, that helps local governments determine if a proposed action is a major action with a potential for significant environmental effects, but also to consider alternatives and to institute methods for reducing environmental effects.

Extractive Use: 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.

Family: An individual or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit; or a group of not more than four (4) persons who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit.

Final Plat: The final map, drawing or chart, on which the subdivider's plan of subdivision is presented for approval and which, if approved, will be submitted to the county register of deeds. The plat must conform to the requirements of the law.

Floor Area: Total gross area of all floors as measured to the outside surfaces of exterior walls, excluding crawl spaces, garages, carports, breeze ways, attics without floors, and open porches, balconies, decks and terraces.

Floor Area Percentage: The total floor area divided by the total lot areas.

Forest Land Conversion: The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Garage: A fully enclosed building designed or used for the storage of motor vehicles not including buildings in which fuel is sold or in which repair or other services are performed.

Ground Coverage Percentage: The percentage of lot area included within the outside lines of exterior walls of all buildings located on the lot including: porches, decks, patios, breeze ways, balconies, and bay windows. In Shoreland areas, all permeable surfaces are included in computing ground coverage percentages.

Group Family Daycare (see daycare facility)

Guest Cottage: 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, in Shoreland districts.

Hardships: As defined in M.S. Chapter 462, a hardship exists when the property in question cannot be put to reasonable use under the strict interpretation of the official controls; the plight of the landowner is due to circumstances unique to his property and was not created by the landowner; and the variance, if granted, would not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the official controls.

Hive: The receptacle inhabited by a colony that is manufactured for that purpose.

Honeybee: All life stages of the common domestic honeybee, *Apis mellifera* species of European origin.

Home Occupation: A use conducted entirely within an enclosed dwelling, which is clearly secondary and incidental to residential occupancy, and which does not change the character thereof. Specifically excluded are any activities that result in the alteration of a building, window display, construction features, equipment, machinery or outdoor storage, any of which is visible from outside of the lot on which such use is located.

Hotel/Motel: Any building or portion thereof where lodging is offered to transient guests for compensation and in which there are more than three (3) sleeping rooms, with no cooking facilities in an individual room or apartment. Hotels and motels within the Shoreland overlay district are commercial planned unit developments.

Impervious Surface: 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 increased rate of flow than prior to development. Examples normally include rooftops, sidewalks, patios, driveways, parking lots, storage areas and concrete, asphalt or gravel surfaces. (also see "Lot Coverage")

Improved Lot: A lot that contains a single-family dwelling ready for immediate use, which is served by a sewage disposal system and water supply.

Individual Sewage Treatment System: A sewage treatment system, other than a public or community system, which receives sewage from an individual establishment. Unless otherwise indicated, the word “system”, as it appears in the ordinance, means an individual sewage treatment system.

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

Intensive Vegetative Clearing: The substantial removal of trees or shrubs in a contiguous patch, strip, row or block.

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

Kennel: Any lot or premises on which five or more dogs ages six months or older are kept, either owned or boarded, either permanently or temporarily.

Laundromat: A place where patrons wash, dry or dry clean clothing or other fabrics in machines operated by the patron.

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

Lot Area: The area of land within the boundaries of a lot, excluding that portion of a lot which is below the ordinary high water level.

Lot Coverage Percentage: The percentage of lot area within the outside lines of exterior walls of all buildings located on the lot including: porches, decks, patios, breeze ways, balconies, and bay windows. In Shoreland areas, all impermeable surfaces are included in computing lot coverage.

Lot Improvement: Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

Lot Line: A line marking a boundary of a lot except that where any portion of a lot extends in to the public right-of-way, the lot line shall be deemed to be the boundary of said public right-of-way.

Lot Line Front: For a riparian lot, the front lot line is that line indicating the ordinary high water level. For a non-riparian lot, a front lot line is a line dividing a lot from any public highway, except a limited or controlled access highway to which the lot has not access.

Lot Line Rear: The lot line intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line. For any lot which abuts on an alley, the rear setback may be measured from the center line of such alley right-of-way.

Lot Line Side: Any lot which meets the end of a front lot line and any other lot lines within thirty degrees of being parallel to such a line, except a front lot line.

Lot of Record: Any lot which is one (1) unit of a recorded plat designated by auditor’s plat, subdivision plat, or other

accepted means and separated from other parcels or portions of said description for the purpose of sale, lease or separation thereof that has been recorded in the Office of the County Recorder prior to the effective date of this Ordinance.

Lot Width: The minimum required horizontal distance between the side lot lines measured at right angles to the lot depth, at the front yard property line and/or OHWM. For cul-de-sac lots or those fronting upon a curved street with an angle of 135 degrees or less, "lot width" shall mean the minimum required horizontal distance between the side lot lines, measured along a straight line at the minimum required front setback line.

Manufactured Home: A manufactured home is a structure transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling for one family, with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein, except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily filed a certification required by the Secretary of the United States Department of Housing and Urban Development. No manufactured home shall be moved into the City of Nevis that does not meet the Manufactured Home Building Code as defined in Minnesota Statutes 327.31, Subdivision 3.

Manufactured Home Park: Any park, court, lot, parcel or tract of land, designed, improved, maintained or intended for the purpose of supplying a location for manufactured home units or upon which any manufactured homes are parked. It shall include all buildings used or intended for use as part of the equipment thereof, whether a charge is made for the use of the manufactured home park or not.

Metes and Bounds Description: A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by described lines or portions thereof.

Minor Subdivisions: Any subdivision containing not more than three (3) lots fronting on an existing street, 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 provision or portion of the Land Use Plan or these regulations.

Multi-Family Dwelling: A building or portion thereof used for occupancy by three or more families living independently of each other and containing three or more dwelling units, including what is commonly known as an apartment building.

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

Official Monument: A marker established the original Federal Land Survey for use as a reference point in surveying and subdividing land.

Ordinary High Water Level: The boundary of public waters and wetlands indicated by 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 ordinary high water level is the elevation of the top of the bank of the channel.

Pedestrian Way: The right-of-way across or within a block, for use by pedestrian traffic whether designated as a pedestrian way, cross-walk or however otherwise designated.

Performance Bond: A bond which may be required by the City Council, Planning Commission or Board of Adjustment to insure the completion of any activity falling under the jurisdiction of this Ordinance.

Permanent Foundation: A foundation meeting the Building Codes and consisting of approved footings, crawl space or basement. (This is not the required foundation for a manufactured home in a manufactured home park).

Planned Unit Development: A type of development characterized by a united site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatively housing; full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units; residential condominiums; townhouses; apartment buildings; campgrounds; recreational vehicle parks; mobile home parks; resorts; hotels; motels; and conversions of structures and land uses to these uses.

Planned Unit Development – Commercial: Uses that provide transient, short-term lodging spaces, rooms or parcels with primarily service-oriented operations. Hotel/motel accommodations, bed and breakfast accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are examples of commercial planned unit developments.

Planned Unit Development – Mixed Use: A mixture of commercial and residential uses, as may be approved.

Planned Unit Development – Residential: Use where the nature of the residency is non-transient and the major or primary focus of the development is not service-oriented. For example: single family residences duplexes, triplexes, residential apartments, mobile home parks, condominiums, time share condominiums, townhouses, cooperatives, and conversions of structures and land uses to these uses. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

Plat: A map or drawing which graphically delineates the boundary of land parcels for the purpose of identification and record of title. The plat is a recorded legal document and must conform to the law.

Platform: A horizontal unenclosed platform without railings, seats, trellises, or other features attached or functionally related to a principal use of site at ground level or at any point extending above ground level but less than three (3) feet above the ground. Platforms with railings, seats, trellises or other features shall be regulated as decks regardless of height above ground level.

Practical Difficulties: “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 the zoning ordinance, the plight of the landowner is due to the 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. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

Preliminary Plat: The preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission for their consideration.

Protective Covenants: Contracts entered into between private parties constituting a restriction on the use of all private property within a subdivision for the benefit of property owners, and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

Public Improvement: Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the City may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

Public Uses: Uses owned or operated by municipal, school districts, county, state or other governmental units.

Public Waters: Any waters as defined in Minnesota Statutes, Section 103G.005, subdivision 15-18. However, no lake, pond, or flowage of less than 10 acres in size will be regulated for purposes of these parts. A body of water created by a private user where there was no previous shoreland shall be exempt from the provisions of this ordinance. The official determination of the size of public water basins and physical limits of drainage areas of rivers and streams shall be made by the Commissioner.

Recreational Vehicle: Any vehicle or vehicular portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreation or other vacation use.

Recreational Vehicle Campground: Any area, whether privately or publicly owned, used on a daily, nightly, weekly or longer basis for the accommodation of five or more tents or recreational vehicles, either free of charge or for compensation. Recreational Vehicle Campgrounds are considered commercial planned unit developments.

Religious Institution: A church, synagogue, temple, mosque or other structure that is architecturally designed or particularly adapted for the primary use of the regular assembly of persons for religious worship. Religious institution includes those accessory uses that are secondary to the principal use, but which are intrinsic and necessary to the tenants and exercise of religious beliefs and that can be conducted on the property in a manner that complies with the requirements of applicable federal, state, and local laws, rules, regulations, codes and ordinances.

Resort: A private commercial recreational development which includes multiple units intended for habitation on a temporary basis for relaxation or recreational purposes. Resorts are considered commercial planned unit development.

Riparian Lot: Any lot which is bounded on one or more sides by public waters frontage.

School: A building or space that is principally used as a place where twenty-five (25) or more persons receive a full course of educational instruction.

Semi-Public Uses: Uses owned by private or private non-profit organizations which are open to some, but not all, of the public such as cemeteries, private schools, clubs, lodges, recreation facilities, etc.

Septic Tank: Any water tight, covered receptacle designed and constructed to receive the discharge of sewage from a building's sewer, to separate solids from liquids, digest organic matters, and store liquids for a period of detention, and allow the liquids for a period of detention, and allow the liquids to discharge to a soil treatment system.

Setback: The minimum horizontal distance between a structure, sewage treatment system, or other facilities and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line or other facility.

Sewage Treatment System: A system which uses subsurface soil treatment and disposal whereby septic tank effluent is treated and disposed of below the ground surface by filtration and percolation through the soil and includes those systems commonly known as: seepage beds, disposal field, and mounds. All private sewage treatment systems must meet or exceed the Hubbard County Environmental Service Department standards for individual sewage treatment contained in the document titled, "Hubbard County Shoreland Management Ordinance".

Sewer System: Pipelines, conduits, pumping stations, force main and all other construction, devices appliances, or appurtenances used for conducting sewage or industrial or other wastes to a point of ultimate disposal.

Shore Impact Zone: Land located between the ordinary high water level of public water and a line parallel to it at a setback of 50 percent of the structure setback.

Shoreland: 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 flood plain designated by ordinance on a river or stream, whichever is greater. The limits of Shoreland may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and where approved by the Commissioner.

Single-Family Dwelling: A structure designated or used for residential occupancy by one family.

Steep Slopes: Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the soil characteristics of the site, as mapped and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having slopes are over twelve percent, as measured over horizontal distances of fifty feet or more that are not bluffs.

Streets and Alleys: Refers to public ways and have the following meanings:

- 1) "Alley" means a minor way which is used primarily for vehicular access to the back or the side of properties abutting on a street.
- 2) "Collector Street" means a street which carries traffic from minor streets to thoroughfares. It includes the principal entrance streets of a residential development and streets for circulation within such a development.
- 3) "Cul-de-sac" means a minor street with only one outlet and having a turnaround.
- 4) "Half-street" means a public right-of-way having only half the required width as specified in Section 85-110, Minimum Subdivision Design Standards.
- 5) "Marginal Access Street" means a minor street which is parallel and adjacent to a thoroughfare and which provides access to abutting properties and protection from through traffic.
- 6) "Minor Street" means a street of limited continuity used primarily for access to the abutting properties and the local needs of a neighborhood.
- 7) "Private Street" means a way for vehicular traffic which is not owned and maintained by the City.
- 8) "Street" means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, lane, and place or however otherwise designated.
- 9) "Thoroughfare" means a street which heavy volumes of fast moving vehicles are provided for, having considerable continuity, and used primarily as traffic arteries for intercommunication between large areas.

Structure: 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.

Subdivider: Any person commencing proceedings under the terms of this section to effect a subdivision of land hereunder for himself or for another.

Subdivision: The division of a parcel of land into two or more lots or parcels, any of which resultant parcel is less than five acres in area or 300 feet in width, for the purpose of transfer or ownership or building or development or, if a new street is involved any division of a parcel of land; the term includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land subdivided.

Surface Water-oriented Commercial Use: 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. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

Temporary Structure: Any structure which has been erected or moved onto a lot in order to be utilized for any purpose for a period not to exceed six (6) months. Any structure which is not a temporary structure is considered a permanent structure and must comply with all provisions of this Ordinance.

Toe of the Bluff: The lower end of a 50 foot segment, measured on the ground, with an average slope exceeding 18 percent.

Top of the Bluff: The higher point of a 50 foot segment with an average slope exceeding 18 percent.

Tower: Any ground or roof mounted pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, turbines, blades or similar apparatus above grade. Does not include flag poles and bird houses. All towers seventy five (75") feet in height or greater, shall be defined as a conditional use.

Variance: Relief from certain provisions of this Ordinance, when due to the particular physical surroundings, shape or topographical condition of the property, compliance would result in practical difficulties upon the property owner. A variance shall not be used to permit a use in a district where it is not allowed under the terms of this Ordinance. Variances shall only be granted in accordance with M.S. 462.

Water-oriented accessory structure or facility: A small, above ground building or other improvement, 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 the public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

Wetlands: A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 Edition)

Zoning Administrator: The Zoning Administrator of the City of Nevis, or its authorized agent or representative.

Section 10-050 Relation to Land Use Plan

It is the policy of the City of Nevis that the enforcement, amendment, and administration of this Ordinance be accomplished with due consideration of the recommendations contained in the City Land Use Plan as developed and amended from time to time by the Planning Commission and City Council. The Council recognizes the Land Use Plan as the policy for regulating land use and development in accordance with the policies and purposes herein set forth.

Section 10-060 Standard Requirements

The following standards shall apply to all zoning districts and property, unless otherwise noted in this Ordinance.

- 1) More Restrictive Provisions to Govern: Where the conditions imposed by any provisions of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, code, statute, resolution or regulation, the regulations which are more restrictive or impose higher standards or requirements shall prevail.
- 2) Interpretation: In their interpretation and application, the provision of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. Interpretation shall be made by the Zoning Administrator, subject to appeal to the Board of Adjustment.
- 3) Conformity with this Ordinance: No building or structure shall be erected, converted, enlarged, constructed,

reconstructed, moved or altered, and no building, structure or land shall be used for any purpose or in any manner which is not in conformity with the provision of this Ordinance and without a building permit being issued when required by this Ordinance and Building Code for the City of Nevis.

- 4) Building Occupancy: Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Ordinance.
- 5) Land Reduction: No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this Ordinance.
- 6) Abrogation and Regulations: These regulations shall not abrogate any easement, covenant, or any other private agreement where such is legally enforceable, provided that where the regulations of this Ordinance are more restrictive, or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this Ordinance shall be controlling.

Section 10-070 Uses Not Provided for within Zoning Districts

Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered by the Planning Commission and City Council, and if determined to be of the same general character as the permitted or conditional uses in the zoning district, and found not to be detrimental to the existing uses and the general public health, safety and welfare, the use may be approved by the City Council.

If the proposed use is not found to be of the same general character as the permitted or conditional uses in the zoning district, the Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable and if so, what zoning district would be most appropriate, initiate an amendment to this Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.

Section 10-080 Separability

It is hereby declared to be the intention of the City that the several provisions of this Ordinance are separable in accordance with the following:

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