

Section 60-070 Standards for Single- and Two-Family Dwellings and Property

The following standards shall apply to all single- and two-family dwelling units, unless specifically exempted:

- 1) All single- and two-family dwellings shall have a minimum floor area of nine hundred (900) square feet.
- 2) All single- and two-family dwellings shall be attached to a permanent foundation, except mobile homes in a mobile home park.
- 3) All single- and two-family dwellings, except mobile homes in a mobile home park, shall have a minimum width of twenty (20) feet.

Not more than one principal residential structure shall be located on a lot, unless permitted by the district regulations, and unless accompanied by an Interim Use Permit, nor shall a principal residential building be located on the same zoning lot with any other principal building, except as may be permitted by Section 90 of this Ordinance relating to planned unit developments.

Section 60-080 Accessory Structures

- 1) No accessory building or structure shall be permitted to be constructed on any lot prior to the construction of the principal building to which it is accessory.
- 2) No accessory building or structure, unless an integral part of the principal building, shall be permitted to be constructed, altered, or moved within 5 feet of the principal building.
- 3) No accessory building shall exceed 25 feet in overall height; contain a sidewall greater than 12 feet in height. There is no maximum number of accessory structures permitted, but no structure shall be permitted which shall cause the lot to exceed the maximum impervious surface requirement of this Ordinance.
- 4) When the parcel contains greater than 1 acre, the accessory building overall height shall not exceed 30 feet in overall height, nor contain a sidewall greater than 16 feet in height, and shall not be located closer than 20 ft. to the side or rear property line. There is no maximum size or number of accessory structures permitted on lots with greater than 1 acre, but no structure shall be permitted which shall cause the lot to exceed the maximum impervious surface requirement of this Ordinance.

Section 60-090 Sanitation Standards.

Any premises used for human occupancy must be provided with an adequate method of sewage treatment and water supply, as follows:

- 1) Each lot, piece or parcel of property in the City of Nevis, abutting on any street, avenue or alley in which a municipal water or sewer main is laid, and having an occupied dwelling, business, or any building with a plumbing system thereon, is required to be connected with the municipal system of the city, provided the parcel boundary of the property containing such structure served is within 200 feet of the municipal utility main as determined by the City of Nevis Public Works Department.
- 2) All private individual sewage treatment systems must meet or exceed Minnesota Rules 7080-7083 for Subsurface Sewage Treatment Systems (SSTS); and are hereby adopted by reference and declared to be a part of this Ordinance.
- 3) All public or private supplies of water for domestic purposes must meet or exceed the standards for water quality of the Minnesota Department of Health. Private wells must be located, constructed, maintained and sealed in accordance with the water well construction code of the Minnesota Department of Health.

- 4) Nonconforming individual SSTS shall be regulated and upgraded in accordance with Division 65 of this Ordinance.
- 5) Approval for private sewage treatment systems, where permitted, must be obtained from the City of Nevis Public Works Department. A copy of the inspection report must be submitted to the City of Nevis within 60 days of approval.

Section 60-100 Home Occupations.

The purpose of this section is to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety and general welfare of the surrounding neighborhood. Customary home occupations in the Residential District (R-1) shall be allowed if they meet the following conditions:

- 1) Such occupation is carried on in the principal building and may not be conducted in an accessory building other than a private garage.
- 2) Not more than twenty-five percent (25%) of the gross floor area of the residence or garage is used for this purpose.
- 3) Only articles made or originating on the premises shall be sold on the premises, unless such articles are incidental to a permitted commercial service.
- 4) No articles for sale shall be displayed so as to be visible from the street.
- 5) Not more than one person other than those who reside on the premises shall be employed.
- 6) No mechanical or electrical equipment shall be used if the operation of such equipment interferes unreasonably with the desired quiet residential environment of the neighborhood or if the health and safety of the residents is endangered. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
- 7) Such occupation does not generate more than two (2) vehicles at one time.
- 8) Such occupation must provide off-street parking, but no more than two (2) spaces.
- 9) There shall be no exterior storage of equipment or materials used in the home occupation, except personal automobiles used in the home occupation may be parked on the site.
- 10) One sign no larger than four (4) square feet shall be permitted on site.
- 11) No home occupation shall be conducted between the hours of 10:00 PM and 7:00 AM unless said occupation is contained entirely within the principal building and will not require any on-street parking facilities.
- 12) No home occupation shall require exterior or significant interior renovation or alteration not customarily found in dwellings except where required to comply with local and state fire and police recommendations.
- 13) A person having a home occupation shall provide proof of meeting the above requirements if complaints are received by the City Council.

Customary home occupations in the Residential/Business Transition (RBT) zoning district shall be allowed if they met the above conditions, however, up to 50% of the gross floor area of the residence and garage may be used for the home

occupation, and, one unlighted freestanding or wall sign no larger than thirty-two (32) square feet shall be permitted on site.

Section 60-110 Adult Use Regulations

The purpose and intent of this regulation is the purpose of this section is to regulate Adult Oriented Businesses to promote the health safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:

- 1) Prevent additional criminal activity within the City;
- 2) Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhoods;
- 3) To locate Adult Oriented Businesses away from residential areas, schools, churches, and parks and playgrounds;
- 4) To prevent concentration of Adult Oriented Businesses within certain areas of the City.

The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including Adult oriented materials. Similarly, it is not the intent nor the effect of this section to restrict or deny access by adults to adult oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of Adult oriented entertainment to their intended market.

Adult Use Definitions. For the purpose of these regulations, the terms defined in this section have the following meanings:

Adult Use: Any activities and businesses described below constitute “Adult Oriented Businesses” which are subject to the regulation of this ordinance.

Adult Book and/or Media Store: An establishment which excludes minors and which has a substantial portion of its stock in trade or stock on display books, magazine, films describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

Adult Cabaret: An establishment which provides dancing or other live entertainment, if such establishment excludes minors by virtue of age from all or part of the establishment and if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Adult Establishment: Any business which offers its patrons services, entertainment, or the sale of merchandise characterized by an emphasis on matter depicting, exposing, describing, discussing, or relating to Specified Sexual Activities or Specified Anatomical Areas. Specifically included in the term, but without limitation, are adult book and media stores, adult cabarets, adult hotels, or motels, adult mini-motion picture theaters, adult modeling studios, adult motion picture arcades, adult motion picture theaters, adult novelty businesses, and other adult establishments.

Adult Hotel or Motel: Adult Hotel or Motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

Adult Mini-Motion Picture Theater:

- a. A theater in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity for less than 100 persons used for presenting motion pictures, including but not limited

to film and videotape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

- b. Any business which presents motion pictures, from which minors are excluded from all or part of the establishment, including films and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas, for viewing on the premises, including but not limited to private booths, viewing by means of coin operated or other mechanical devices, and the viewing or excerpt of motion pictures offered for sale or rent.

Adult Modeling Studio: An establishment, which excludes minors from all or part of the establishment, who's major business are figure models who are so provided with the intent of providing sexual stimulation to sexual gratification to such customers and who engage in Specified Sexual Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Adult Motion Picture Arcade: Any place which excludes minors from all or part of the establishment wherein coin or token operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, video machines or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing or describing Specified Sexual Activities or Specified Anatomical Areas.

Adult Motion Picture Theater: A theater in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity of 100 or more persons used regularly and routinely for presenting live entertainment or motion pictures, including but not limited to film and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas for observation by patrons therein.

Adult Novelty Business: A business, from which minors are excluded from all or part of the establishment, which sells, offers to sell, or displays devices which simulates human genitals or devices which are designed for sexual stimulation.

Specified Anatomical Areas are any of the following conditions: Less than completely and opaquely covered.

- a. human genitals, pubis region, or pubic hair;
- b. buttock; and
- c. female breast below a point immediately above the top of the areola; and
- d. human male genitals in a discernible turgid state, even if opaquely covered.

Specified Sexual Activities are any of the following conditions:

- a. An act of sexual intercourse, normal or perverted, actual or simulated, including genital, anal genital, or oral genital intercourse, whether between human beings or between a human being and an animal.
- b. Sadoomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed.
- c. Masturbation or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ clothed or unclothed.
- d. Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of a female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

Application of this Ordinance. Except as in this Ordinance specifically provided, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose, or in any manner which is not in conformity with this Ordinance.

No Adult Oriented Business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City of Nevis, the Laws of the State of Minnesota or the United States of America. Nothing in this Ordinance shall be constructed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.

Location. Adult Oriented Businesses may be located only in those zones as set forth in Division 45 of the Nevis Zoning Ordinance.

Hours of Operation. No Adult Oriented Business site shall be open to the public from the hours of 11:00 PM to 9:00 AM.

Operation.

- 1) Off-site Viewing. An establishment operating as an Adult Oriented Business shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of Minnesota Statutes Chapter 617 or other applicable Federal or State Statutes or local ordinances.
- 2) Entrances. All entrances to the business, with the exception of emergency fire exits which are not useable by the patrons to enter the business, shall be visible from a public right-of-way.
- 3) Layout. The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video media, or any other material.
- 4) Illumination. Illumination of the premises' exterior shall be adequate to observe the location and activities of all persons on the exterior premises.
- 5) Signs. Signs for Adult Oriented Businesses shall comply with those sign regulations addressed in Division 80 of the Nevis Zoning Ordinance, and in addition signs for Adult Oriented Businesses shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.

License.

- 1) Licenses Required. All establishments, including any business operating at the time this Ordinance becomes effective, operating or intending to operate Adult Oriented Business, shall, in conjunction with the Conditional Use Permit approval requirements of this Ordinance, apply for and obtain a license from the City of Nevis. A person is in violation of this Ordinance if he or she operates an Adult Oriented Business without a valid license issued by the City.
- 2) Application. An application for a license may be made on a form provided by the City.
 - a. The application must be accompanied by a sketch or diagram showing the configuration of the premises including a statement of total floor space occupied by the business. The sketch or diagram need not be

- professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
- b. The application must be qualified according to the provisions of this section and the premises must be inspected and found to be in compliance with the appropriate state, county and local law and codes by the health official, fire marshal, and building official.
 - c. Application for license shall contain the address and legal description of the property to be used, the names, addresses, phone numbers, dates of birth, of the owner, lessee, if any, the operator or manager, and all employees; the name address, and phone number of two persons, who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's, manager's, or operator's character, whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense, if so, complete and accurate information regarding the disposition thereof, the names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as the regarding credit which has been extended for the purposes of constructing, equipping, maintaining, operating or furnishing or acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business.
 - d. If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, and credits furnishing credit for the establishment, acquisition maintenance, and furnishings of said business and, in the case of a corporation, the names, addresses, and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation.
 - e. Applicants shall furnish to the City, along with their applications, complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise.
 - f. The license fee required by this ordinance must accompany the application.
 - g. An applicant is ineligible for a license if applicant has been convicted of a crime involving any of the following offenses:
 - Any obscenity crime as defined by Minnesota Statutes 617.23 through 617.299 inclusive, or as defined by any ordinance or statute in conformity therewith;
 - Any obscenity crime as defined by Minnesota Statute 617.23 through 617.299 inclusive, or as defined by any ordinance or statute in conformity therewith; for which;
 - Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense.
 - Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a gross misdemeanor or felony offense, or;
 - Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the first conviction, whichever is the later date, if the conviction is of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.
 - The fact that a conviction is being appealed shall have no effect on disqualification of the applicant or applicant's spouse.
 - h. Regualification. Any applicant, who has been convicted of an offense above, may qualify for an Adult Oriented Business License only when the time period required by has elapsed.

- i. Posting. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the Adult Oriented Business. The license shall be posted in a conspicuous place at or near the entrance of the Adult Oriented Business so that it may be easily read at any time.
- j. Council Action. The City Council shall act to approve or disapprove the license application within 60 days from the date the application was submitted, provided that the application contains all of the information required by this ordinance. If the application is deficient, the Council shall act on the application within 120 days from the date that the deficiency has been corrected.
- k. Appeals. Within 90 days after an adverse decision by the Council, the applicant may appeal to the District Court by serving a notice upon the Mayor or City Administrator.

Fees. The Nevis City Council shall set fees in accordance with the adopted fee schedule. The initial fee is \$500.00 per year. License fees are non-refundable.

Inspection.

- 1) Access. An applicant or licensee shall permit health officials, representatives of the police department, fire department, and building inspection division, to inspect the premises of an Adult Oriented Business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.
- 2) Refusal to Permit Inspections. A person who operates an Adult Oriented Business or his agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department, and building inspecting division at any time it is occupied or open for business. Refusal to permit inspections may result in the suspension of the license as provided below.
- 3) Exceptions. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

Expiration and Renewal.

- 1) Expiration. Each license shall expire at the of the calendar year and may be renewed only by applying at least 60 days before the expiration date, the expiration of the license will not be affected.
- 2) Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

Suspension.

- 1) Causes of Suspension. The City may suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:
 - a. Violated or is not in compliance with any provision of this chapter.
 - b. Engaged in the use of alcoholic beverages while on the Adult Oriented Business premises other than at an Adult Hotel or Motel.
 - c. Refused to allow an inspection of the Adult Oriented Business premises as authorized by this chapter.
 - d. Knowingly permitted gambling by any person on the Adult Oriented Business premises.
 - e. Demonstrated inability to operate or manage an Adult Oriented Business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

- 2) **Notice.** A suspension by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof.

Revocation.

- 1) Suspended Licenses. The City may revoke a license if a cause of suspension occurs and the license has been suspended within the preceding 12 months.
- 2) Causes of Revocation. The City shall revoke a license if it determines that:
 - a. A licensee gave false or misleading information in the material submitted to the City during the application process;
 - b. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 - c. A licensee or an employee has knowingly allowed prostitution on the premises;
 - d. A licensee or an employee knowingly operated the Adult Oriented Business during a period of time when the licensee's license was suspended;
 - e. A licensee has been convicted of an offense for which the time period required has not elapsed.
 - f. On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime, for which a conviction has been obtained and the person or persons were employees of the Adult Oriented Business at the time of the offenses were committed.
 - g. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, and oral copulation or masturbation to occur in or on the licensed premises.
- 3) Appeals. The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- 4) Exceptions. The license does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.
- 5) Granting a License after Revocation. When the city revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Oriented Business license for one year from the date the revocation became effective. If, Subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked, the applicant may not be granted another license until the appropriate number of years has elapsed.
- 6) Notice. A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof.

Transfer of License. A licensee shall not transfer this license to another, nor shall a licensee operate an Adult Oriented Business under the authority of a license at any place other than the address designated in the application.

Severability. Every section, provision, or part of this Ordinance or any permit issued pursuant to this ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or

part of this Ordinance or any permit issued pursuant to this ordinance shall be held invalid by a court of competent jurisdiction it shall not invalidate any other section, provision or part thereof.

Section 60-120 Keeping of Honeybees

- 1) No person shall keep, maintain, or allow to be kept any hive or other facility for the housing of honeybees on or in any property in the City of Nevis, except in accordance with these standards of this Section.
- 2) A beekeeper, including the use of beekeeping equipment, may be allowed to establish an apiary, colony, or hive of honeybees without the issuance of a permit, provided such activity is contained upon a lot, or group of contiguous parcels under common ownership and/or control, containing one (1) acre or more of land area.
- 3) Such operation shall be on property adjacent to land zoned Agricultural Transition (AT) district according to Division 50 of this Ordinance, or be adjacent to a vacant parcel in another zoning district adjacent to an AT District.
- 4) Standards of practice. Any person keeping honeybees shall comply with the following standards of practice:
 - a. Honeybee colonies shall be kept in hives with removable frames, which shall be kept in sound and usable condition.
 - b. Each beekeeper shall ensure that a convenient source of water is available to the colony prior to and so long as colonies remain active outside of the hive.
 - c. For each colony permitted to be maintained under this article, there may also be maintained upon the same apiary lot, one (1) nucleus colony in a hive structure not to exceed one (1) standard nine and five-eighths (9 5/8) inch depth ten-frame hive body with no supers.
 - d. Each beekeeper shall maintain his beekeeping equipment in good condition, including keeping the hives painted, and securing unused equipment from weather, potential theft or vandalism and occupancy by swarms. It shall be a violation of this section for any beekeeper's unused equipment to attract a swarm, even if the beekeeper is not intentionally keeping honeybees.
 - e. Each beekeeper shall enclose their hives, unless located on a rooftop on a second or higher story so as to be inaccessible to the general public and so that bee movements to and from the hive do not interfere with the ordinary movements of persons on adjacent properties or the public right-of-way.
 - f. Any person keeping honey bees in each instance where a colony is kept less than twenty-five (25) feet from a property line of the lot upon which the apiary is located, as measured from the nearest point on the hive to the property line, and any entrances to the hive faces that lot line, the beekeeper shall establish and maintain a flyway barrier at least six (6) feet in height. The flyway barrier may consist of a wall, fence, dense vegetation or a combination thereof, such that honeybees will fly over rather than through the material to reach the colony. If a flyway barrier of dense vegetation is used, the initial planting may be four (4) feet in height, so long as the vegetation normally reaches six (6) feet in height or higher. The flyway barrier must continue parallel to the apiary lot line for ten (10) feet in either direction from the hive. All other sides of the area encompassing the colonies shall consist of fencing, a wall, dense vegetation or combination of at least four (4) feet tall. The area encompassing the colonies need not entail the entire property. A flyway barrier is not required if the property adjoining the apiary lot line is undeveloped, or is zoned Agricultural Transition, or is a wildlife management area or naturalistic park land with no horse or foot trails located within twenty-five (25) feet of the apiary lot line. A flyway barrier is not required if the hives are located at least five (5) feet from the side of the structure and at least fifteen (15) feet from any adjacent and occupied structure.
 - g. Any beekeeper who violates these standards, or is found to have had an occurrence where a documented serious medical injury is caused to any person not associated with the beekeeping operation, shall be deemed a public nuisance and shall immediately discontinue any and all future bee keeping operations on the subject property as determined by the Zoning Administrator and/or law enforcement.