

ORDINANCE NO. 180  
SERIES 2000

Dove Creek

Zoning Regulations

**SUBSECTION:**

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**7-3-1: GENERAL PROVISIONS:**

- (A) This Section, as amended from time to time, together with the Official Zoning Map (as adopted by Ordinance No. \_\_\_ (Series 2000), as amended from time to time, may be cited as the Town's zoning regulations or Zoning Ordinance.
- (B) The purpose of these Zoning Regulations is to promote the public health, safety and welfare.
- (C) Whenever there is any conflict between these Regulations and any other ordinance regulation or law the more restrictive or higher standard shall apply.
- (D) These regulations and the Official Zoning Map shall constitute a part of a future Town of Dove Creek Comprehensive Master Plan.

7-3-2: DEFINITIONS.

The following words and terms shall be defined as follows for the purposes of these Zoning Regulations:

ACCESSORY USE: A use which is subordinate to, clearly incidental to, customarily in connection with, and ordinarily located on the same premises as the permitted use. Home occupations which meet the criteria set out in Subsection 11 of this Section shall be considered an accessory use to a residence in all districts.

ALLEY: A public or private way, at the rear or side of property, permanently reserved as an ancillary means of vehicular or pedestrian access to abutting property.

BOARD OF ADJUSTMENT: A review and appeals board appointed by the Town Board. Until such time as the town board decides differently, or a conflict arises, the planning commission shall act as the board of adjustment.

BUILDING LINE: A line parallel to a property line beyond which no exposed portion of a building extends.

CONDITIONAL USE: A use which is permitted or allowed in the district involved, upon review by the Town Board pursuant to Subsection 12 of this Section, which authorizes the recipient to make use of property in accordance with the requirements of this ordinance as well as any additional requirements imposed by the Town Board.

DAY CARE CENTER: A state licensed child care arrangement that provides day care on a regular basis for less than 24 hours a day for five or more children of preschool age.

DUPLEX: a residence with two (2) dwelling units.

DWELLING OR RESIDENCE, SINGLE-FAMILY: A detached or attached building designed for and used as a single dwelling unit by one family. The term "single family residence" shall include a manufactured home which:

- (A) is partially or entirely manufactured in a factory;
- (B) is installed on an engineered permanent foundation.

DWELLING UNIT: A one (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease as a single unit, on a monthly basis or longer, physically separated from any other room or dwelling units which may be in the same structure and served by not more than (1) one gas meter and one (1) electric meter.

FAMILY: One or more persons living together as a single housekeeping unit.

FAMILY CHILD CARE HOME: A state licensed child care arrangement that provides child care for less than 24 hours a day for two or more preschool age children in the place of residence.

FOUNDATION: Part of the building that holds a structure in place. Intended to protect buildings from being harmed by ground shifts; joins entirety of structure acting like an anchor.

GAS STATION: Any building or lot having facilities for the sale of gasoline and other fuels for use by motor vehicles, and which may include incidental facilities for service and minor repair of motor vehicles.

GOVERNMENT BUILDINGS AND FACILITIES: Any building or facility owned and operated by the United States of America, the State of Colorado, the Town of Dove Creek, or any other agency or political subdivision thereof.

HOME OCCUPATIONS: Any commercial activity, whether for profit or non-profit conducted within a dwelling unit pursuant to Subsection 11.

HOMEOWNERS ASSOCIATION: any entity, whether corporation, partnership, unincorporated association, or other entity existing for the purpose of maintaining commonly owned facilities or enforcing private protective covenants whose members or shareholders are the property owners involved.

MANUFACTURED HOUSING UNIT: A preconstructed complete building unit or combination of preconstructed complete building units without motor power designed and commonly used for single-unit residential occupancy by persons in either temporary or permanent locations, which unit or units are manufactured in a factory or at a location other than the residential site of the complete home and which unit or units are not licensed as a recreational vehicle.

MOBILE HOME AND MOBILE HOME PARK: Mobile Home and Mobile Home Park are defined as defined in Ordinance No. 181 (Series 1999).

MULTIPLE FAMILY RESIDENCE: Any residence with three (3) or more dwelling units in a single building.

NONCONFORMING USE: A use which does not comply with the regulations, dimensional requirements or other regulations of these Zoning Regulations.

PLANNING COMMISSION: The Planning and Zoning Commission of the Town.

PUBLIC UTILITY SERVICE FACILITIES: Transmission and distribution facilities for natural gas, electricity, water, sewer, water, drainage, telephone, and cable television necessary to provide service to customers located in various districts of the Town, such as pipes, lines, mains, wires, transformers, valves, and other related appurtenances, but not including buildings, offices, and production or generation facilities.

SET-BACK: The perpendicular distance between a property line and the building line.

STREET: A public thoroughfare used for vehicular traffic.

TEMPORARY MOBILE HOME: A mobile home placed in the A, B, or C districts that does not have a permanent foundation. The mobile home must still meet the other design requirements under Ordinance \_\_\_ (Series 2000) and be granted a conditional use permit by the town.

TOWN: Town of Dove Creek.

TRAVEL HOME AND TRAVEL HOME PARK: Travel Home and Travel Home Park are defined as defined in Ordinance \_\_\_ (Series 2000).

USE: The activity or purpose for which property, a building or other structure is designed, arranged, intended, occupied or maintained.

USE-BY-RIGHT: A use which is permitted or allowed in the district involved and complies with the provisions of these Zoning Regulations and other applicable Town ordinances and regulations.

VARIANCE: A grant of permission by the Town Planning Commission from the dimensional requirements, design or performance standards and other provisions of these regulations not related to use.

7-3-3: ZONING MAP.

- (A) The 2000 Revised Zoning map of the Town, as such may be amended from time to time, may be known or cited as the "Official Zoning Map" of the Town.
- (B) Amendments to the Official Zoning Map may be made by and ordinance enacting a revised map or by an ordinance amending portions of the Official Zoning Map by specifying the legal description of the property to be rezoned. A copy of the Official Zoning Map, as amended from time to time, shall be maintained in the Town Clerk's office available for public inspection. Periodically, copies of the Official Zoning Map, as amended, may be reproduced and made available to the public.

- (C) The regulations for the various districts provided for in this Section shall apply within the boundaries of each district as indicated on the Official Zoning Map. The district boundaries, as shown on the Official Zoning Map, shall be construed to follow the center lines of streets, to follow platted lot lines or the lines of undivided parcels of property, or to follow the Town limits, whenever a boundary is shown as approximately in the vicinity of such lines.

**7-3-4: RESIDENTIAL DISTRICTS.**

Intent: The residential districts described below in Sections 5 and 6 are established to promote stability in residential neighborhoods; to protect such property from incompatible land uses; to protect property values, and to encourage the appropriate use of such land. Certain other uses are permitted which are compatible with residences. Dimensional requirements are set out in Subsection 9.

**7-3-5: "A" RESIDENTIAL DISTRICT.**

- (A) Intent: The "A" Residential District is intended to coincide with the historic core of residential Dove Creek and accommodate a variety of housing types at medium density as well as other activities which are compatible with such uses.
- (B) Uses by Right:
- (1) Duplexes and single family homes which are site built, manufactured houses or houses moved onto the site and meet the design and performance standards of Subsection (D).
  - (2) Government facilities and buildings.
  - (3) Public Utility service facilities.
  - (4) Parks and recreation facilities.
  - (5) Mobile homes on individual lots which meet the design standards of Subsections (D)(1) and (D)(2).
  - (6) Churches, schools, libraries, and community centers.
  - (7) Home occupations.
  - (8) Accessory uses.

(C) Conditional Uses:

- (1) Nursing care, child care, and homes for the handicapped.
- (2) Bed and breakfast operations which meet the criteria of Subsection 12.
- (3) Temporary mobile homes and mobile homes not on a foundation which meet the design standards of subsection (D)(2).

(D) Design and Performance Standards:

- (1) Residences shall be anchored to a foundation constructed in full conformity with the Town Building Code or Ordinance # \_\_\_\_, Series 2000, related to regulations for Manufactured Housing, Mobile Homes, Travel Homes and Other Manufactured Structures.
- (2) The residence shall qualify for a building permit pursuant to either the Town Building Code or Ordinance # \_\_\_\_, Series 2000 related to regulations for Manufactured Housing, Mobile Homes, Travel Homes or Other Manufactured Structures.

7-3-6:

**“B” MULTIPLE USE RESIDENTIAL DISTRICTS.**

- (A) Intent: The “B” Residential District is intended to provide a variety of housing types at medium density as well as other activities which are compatible with such uses. However, this district is more flexible with limited commercial development allowed. Commercial uses are not guaranteed; they must be approved by gaining a conditional use permit and by going through a neighborhood compatibility meeting to determine whether or not the proposed project will adversely impact the neighborhood in question.
- (B) Uses by Right.
  - (1) Same Uses by Right as in the “A” District.
  - (2) Multiple Family Dwellings.
  - (3) Bed and Breakfast Operations.
- (C) Conditional Uses.

- (1) Temporary mobile homes and mobile homes not on a foundation which meet the design standards of section (D)(2).
- (2) Nursing care, child care, and homes for the handicapped.
- (3) Hotels, motels, lodges.
- (4) Mobile home parks.
- (5) Limited commercial uses that are compatible with the residential neighborhood.

(D) Design and Performance Standards

- (1) Residences shall be anchored to a foundation constructed in full conformity to the Town Building Code or Ordinance # \_\_\_\_, Series 2000, relating to regulations for Manufactured Housing, Mobile Homes, Travel Homes and Other Manufactured Structures.
- (2) The residences shall qualify for a building permit pursuant to either the Town Building Code or Ordinance # \_\_\_\_, Series 2000, relating to regulations for Manufactured Housing, Mobile Homes, Travel Homes and Other Manufactured Structures.

**7-3-7: "C" COMMERCIAL DISTRICT**

- (A) Intent: This District mainly encompasses lands along Highway 666. Its purposes is to create areas for retail and wholesale businesses, tourist and auto oriented uses, and storage. Manufacturing activities which require adequate space, light and air whose operations are quiet and clean are permitted by conditional use. Each use will be required to mitigate its particular negative impacts, as they exist, if they exist, so as to provide for the reasonable enjoyment of adjacent properties. Residential uses are permitted, however, the Town does encourage primarily commercial uses.
- (B) Uses by Right:
  - (1) Uses by Right and Conditional Uses listed in Districts A and B.
  - (2) Retail stores, business and professional offices and service establishments which cater to the general public.

- (3) Libraries, museums, and depots.
- (4) Indoor theaters, drive-in restaurants and drive-in theaters.
- (5) Hotels and motels.
- (6) Parking facilities, funeral homes, commercial garages.
- (7) Restaurants and taverns.
- (8) Gas stations which comply with the following criteria:
  - (a) All fuel storage shall be located underground.
  - (b) All gasoline pumps, lubrication and service facilities shall be located at least twenty (20) feet from any street right-of-way line.
- (9) Building material businesses.
- (10) Farm implement, mobile home, automobile and other vehicle sales of service establishments.
- (11) Feed storage and sales establishments.
- (12) Veterinary clinics.
- (13) Automobile body shops.
- (14) Machine and welding shops.
- (15) Warehouses or storage facilities.
- (16) Travel home and mobile home park.

(C) Conditional Uses:

- (1) Light Manufacturing and Industrial uses that meet the neighborhood compatibility standards. Typical examples include: food processing; metal finishing and fabrication; power generation and transformer stations; and wood manufacturing, fabric manufacturing and similar activities.
- (2) Buildings greater than 40 feet in height or containing more than 10,000 square feet of floor area.



(D) Performance Standards:

- (1) No use shall be established or maintained in the "C" District which results in an unreasonable hazard to the community, creates a public or private nuisance, or creates unreasonable smoke, dust, noise, fumes, odors, vibrations, or light observable off the premises.
- (2) Buildings containing more than 10,000 square feet of floor area will be required to mitigate the visual impacts of their size by means of design, landscaping, berming and other methods of site treatment, and must be compatible with the mass and scale of existing buildings on adjacent properties, or if there are no such buildings compatible with the mass, and scale of buildings in the Town generally.
- (3) Residences shall be anchored to a foundation constructed in full conformity with the Town Building Code or Ordinance # \_\_\_\_, Series 2000, relating to regulations for Manufactured Housing, Mobile Homes, Travel Homes and Other Manufactured Structures.
- (5) Residences and commercial buildings shall qualify for a building permit pursuant to either the Town Building Code or Ordinance # \_\_\_\_, Series 2000, relating to the regulations for Manufactured Housing, Mobile Homes, Travel Homes and Other Manufactured Structures.

**7-3-8: "I" INDUSTRIAL DISTRICT.**

- (A) Intent: The "I" Industrial District is intended to provide areas for medium industrial development.
- (B) Uses by Right:
  - (1) Grain drying, or feed manufacture, feed mill.
  - (2) Sale of retail of any commodity manufactured, processed, fabricated or warehoused on the premises.
  - (3) Repair, rental, servicing of any goods, commodity, the manufacture, processing, fabrication, warehousing or sale of which is permitted.
  - (4) Storage of gasoline or other petroleum products.

- (5) Motor vehicle service station, gasoline filling stations and car wash.
- (6) Office used for the direct support and as an integral part of a use permitted in this district, when the office is located on the same lot as the permitted use.
- (7) Other similar industrial uses which are not more detrimental to the highest and best use of land in this district than the permitted uses listed above.

(C) Performance Standards:

- (1) No use shall be established or maintained in the "I" District which results in an unreasonable hazard to the community, creates a public or private nuisance, or creates unreasonable smoke, dust, noise, fumes, odors, vibrations or light observed off premises.
- (2) Structures shall qualify for a building permit pursuant to either the Town Building Code or Ordinance # \_\_\_\_, Series 2000, relating to regulations for Manufactured Housing, Mobile Homes, Travel Homes or Other Manufactured Structures.

**7-3-9: DIMENSIONAL REQUIREMENTS.**

MINIMUM LOT

MINIMUM SETBACKS

District	Use	Width (Feet)	Min. Lot Area (Sq. Feet)	Min. DU Space	Front (Feet)	Rear (Feet)	Side (Feet)	Side on Corner Lot	Max. Bldg. Height
"A"	All	50	5,000	950 sq.ft.	25	10	7.5	10	35
"B"	All	50	4,500	750 sq.ft.	20	10	7.5	10	35
"C"	Business *	50	4,500	none	none	5**	none	10	40
"I"									

\* Residences in the Commercial district will have dimensional requirements similar to those under Zone B.

\*\* Rear setbacks will be five (5) feet for commercial development; except when bordering residential property, then the setback will be ten (10) feet.

- (A) Setback Requirements-No portion of any building may be located on any lot closer to any lot line or the street right-of-way line or center-line than outlined under these requirements.
- (B) Determining Public Right-of-Ways.
  - (1) If the street right-of-way is readily determinable, by reference to a recorded map, set irons, or other means, the setback shall be measured from such right-of-way line.
  - (2) As used in this section, the term "lot boundary line" refers to lot boundaries other than those that abut streets.
- (C) Measuring Setback Requirements-Setback distances shall be measured from the street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage of it.

**7-3-10: PERMITTED RESIDENTIAL AND COMMERCIAL LAND USES.**

Purpose. The purpose of this section is to outline land uses that are acceptable in different residential and commercial districts. The town attempts to recognize the most common uses, however it does understand that not all uses are mentioned herein. Therefore, decisions on questionable uses will be decided in the best judgment of the Town Planning Commission and recommended to the Town Board.

**USE DESCRIPTIONS / ZONES**

	A	B	C	I
Residential				
Single-Family, Detached	A	A	A	X
Single Family, Attached	A	A	A	X
Town homes/Condominiums	A	A	A	X
Mobile Homes, Foundation	A	A	A	X
Mobile Homes, Temporary	C	C	C	X

Multiple Family	X	A	A	X
Mobile Home Park	X	C	A	X
Home Occupations	A	A	A	X
Homes for Special Services				
Nursing Care	C	C	C	X
Day Care Centers	C	C	C	X
Homes for Handicapped	C	C	C	X
Homes for Profit/Lodging				
Hotels/Motels/Lodges	X	C	A	X
Bed and Breakfasts	C	A	A	X
Churches/Temples/Synagogues	A	A	A	X
Schools/Local and State Gov.	A	A	A	X
Community Centers/ Libraries	A	A	A	X
Public Utility Service Facilities	A	A	A	X
Automobile Services				
Parts/Supply	X	X	A	A
Automobile Sales	X	X	A	A
Service Stations	X	X	A	A
Automobile Mechanic	X	C	A	A
Farm Implement Sales/Service	X	X	A	A
Retail Businesses	X	C	A	X
Banks/Financial Institutions	X	X	A	X
Office Buildings	C	C	A	X

Timber Processing/Lumber Yards	X	X	A	A
Restaurants/Bars	X	X	A	X
Grocery Stores	X	X	A	X
Liquor Stores	X	X	A	X
Processing of Rocks/Minerals	X	X	X	A
Salvage/Junk Yards	X	X	X	C
Gasoline/Petroleum Storage	X	X	C	A
Light Industrial/Manufacturing	X	X	C	A
Grain Drying/Feed Mill	X	X	X	A
Feed Storage/Sales	X	X	A	A
Towers/Antennas, 50 ft/less	C	C	C	A
Towers/ Antennas, 50 ft/more	X	X	C	A
Temporary Trailers/Mobile Homes for Commercial Uses	X	X	C	C
Veterinary Clinics	X	X	A	X
Adult Entertainment*	X	X	C	X

\*Such uses cannot be completely disallowed by the Town, however the town limits such businesses to the commercial area (C) and requires these uses to be at least 1000 feet away from all churches, schools, residential neighborhoods that may be impacted. Also, they must remain at least 1000 feet from any use frequented by children (theaters, libraries, video arcade, etc.).

#### KEY

- A accepted with, through building permit process:
- C permissible use with conditional use permit approval; and
- X not permitted.

7-3-11: SUPPLEMENTAL REGULATIONS.

(A) Home Occupations:

Purpose. The ability to work at home would be allowed. However, such an allowance should not be allowed to supersede the integrity of the neighborhood. The Town of Dove Creek looks favorably upon working out of the home; it allows parents to see their children more often, provides for the local economy, and is environmentally sensitive. The Town does not want home occupations to place a negative impact upon a residential neighborhood.

- (1) Town and State Sales Tax Licenses and Town Business Licenses must be obtained if sales taxable by the Town or State sales taxes are to be made.
- (2) Only the residents of the dwelling unit and three (3) employees may be engaged in the home occupation.
- (3) No unreasonable noise, glare, smoke, dust, vibration, or odor shall be observable off the premises.
- (4) The home occupation activity shall not utilize or occupy more than 750 square feet in total nor more than 750 square feet in a garage or other structures of the residence.
- (5) No business activity or storage of property involved in the business may take place outside of enclosed structures, except for horticultural activities.
- (6) The short term rental of rooms, such as bed and breakfast operations, does not qualify as an accessory use pursuant to this Subsection.
- (7) Higher impact occupations are allowed in the Commercial District.

- (B) It shall be unlawful to maintain, own or operate any offensive or unwholesome business or establishment within the Town, including but not limited to rendering plants tanneries, pig sties, feed lots, dairy farms, manufacture and storage of explosives, foundries, or petroleum product refineries, unless such business was lawfully in existence at the effective date of this Section, or at the effective date of annexation subsequent to the effective date of this Section. In either event, such business or establishment shall be subject to the Nonconforming Use Regulations of Subsection 13 of these regulations, and all other applicable regulations of the Town.

7-3-12: CONDITIONAL USES.

- (A) Uses listed as conditional uses for the various zoning districts provided in this Section shall be allowed only if the Town Board determines, following review pursuant to Subsection 16, that the following criteria are substantially met with respect to the type of use and its dimensions:
- (1) The use will not be contrary to the public health, safety, or welfare.
  - (2) The use is not materially adverse to the Town's future Master Plan.
  - (3) Streets, pedestrian facilities, and bikeways in the area are adequate to handle traffic generated by the use with safety and convenience. Traffic generated by the development will not create safety hazards or create traffic which is beyond the capacity of affected roads.
  - (4) The use is compatible with existing uses in the area and other allowed uses in the District.
  - (5) The development will not adversely change the character of the neighborhood.
  - (6) The location of curb cuts and access to the premises will not create traffic hazards.
  - (7) The use will not generate light, noise, odor, vibration, or other effects which would unreasonably interfere with the reasonable enjoyment of other property in the area.
- (B) The burden shall be upon the applicant to prove that these requirements are met.
- (C) An application for a conditional use shall be submitted by the applicant to the Town Board for Review. The Town Clerk shall issue the application and either the Town Clerk, Planning Commission Chair, Mayor or other designated official shall meet with the applicant and advise accordingly. The Town shall prepare a report for the Town Board.
- (1) When presented to the Town Board, the application shall be accompanied by a report setting forth the Town's findings concerning the application's compliance with Subsections 10 and 12 of this Section and any other information deemed important by the Town. If the Town report proposes a finding or conclusion that the application fails to comply with

Subsection 10 or 12 or any other requirement of this Section, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings and conclusions.

- (2) The Town Board shall consider the application and the report in a timely fashion, and may in its discretion, hear from the applicant, other agencies, or members of the public.
  - (a) A neighborhood meeting, whose purpose is to provide public input and is not a public hearing, will be held prior to a decision. The compatibility of a project will be reviewed by the Town Board, the neighborhood members, and the applicant before the issuance of a conditional use permit. Participates in the meeting shall be limited to the applicant and their representative, neighbors, and the Town Board and staff. The petitioner shall mail notice of the neighborhood meeting to owners of property adjacent to the proposed development at least seven days prior to the meeting.
  - (b) The applicant shall present the project, the use of the site, and will provide a site plan. They will make and discuss public comments. The Town Board will use the information from the neighborhood compatibility meeting in their decision.
- (3) After reviewing the application for compliance with this Subsection, the Town Board shall recommend, by motion, approval or disapproval. If the application is disapproved, the Board shall specify the particular requirements the application fails to meet. Separate votes may be taken with respect to each requirement not met by the application. The Board may attach specific conditions making the approval of the application contingent on these conditions.
- (D) Conditional use permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures of any portion thereof covered under permit continues to be used for purposes for which the permit was granted, permitted use shall be continued. Minor design modifications or insignificant deviations from the permit are permissible with the approval of the permit issuing authority.

**7-3-13: NONCONFORMING USES.**

- (A) Any use, building or structure which at the effective date of this Section or at the time of annexation, if annexed subsequent to the effective date of this Section, was lawfully existing and maintained in accordance with the previously applicable



County or Town Regulations and Ordinances but which does not conform or comply with all of the regulations provided for in these Zoning Regulations, may continue to be maintained and used as a lawful nonconforming use only in compliance with the provisions and limitations imposed by this Subsection. Uses, structures or buildings which were unlawful or illegal and not in compliance with previously applicable regulations shall remain unlawful, illegal, and subject to abatement or other enforcement action.

- (B) If a use, building or structure is lawfully nonconforming in that it is not a “use by right” or a “conditional use” which has been approved pursuant to the review of Subsections 12 and 16, the following shall apply:
- (1) If the building, mobile home or structure involved in the use is removed or if it is destroyed or damaged so that 50% of the square feet of the habitable area needs repair, replacement or construction, the building, mobile home or structure after repair shall no longer be lawful to use the building, mobile home or structure or premises except in compliance with the Use Regulations for the District within which it is located.
  - (2) If the nonconforming use is abandoned or discontinued for a period of time, the premises must be maintained and upon reoccupation it should be habitable (livable), determined by the Town Board or appointed representative.
  - (3) The use may be continued only substantially as it existed at the effective date of this Subsection 16 or of annexation, and no material change in the type of use shall be allowed, unless the Planning Commission determines, following the hearing procedure set out in Subsection 16 will be met, and that the new use is a more restrictive use than the existing nonconforming use. Any change in use allowed pursuant to this provision shall not affect the future status of the use as a nonconforming use for all purposes of this Subsection.
  - (4) The extent or area of the premises utilized for or by the nonconforming use, building or structure, may not be materially altered. Expansion of or a change in a nonconforming use will require a conditional use permit and shall meet the conditions of Subsection 12.

**7-3-14: VARIANCES.**

- (A) The Planning Commission may recommend and the Town Board may grant a variance from the Dimensional Requirements, Design or Performance Standards and other provisions of these regulations not related to “use”, if it determines,

following the review procedure of Subsection 16, that the criteria of this Subsection will be met. No variance shall be granted from the provisions governing "uses by right", and "conditional uses" within any zoning districts.

- (B) Variances shall be granted only if all the following criteria are met:
  - (1) There are practical difficulties in the way of carrying out the strict letter of the Zoning Ordinance, and
  - (2) The spirit of the ordinance will be observed, the public health, safety and welfare secured and substantial justice done by granting the variance.
- (C) The burden shall be on the applicant to show that these criteria have been met.
- (D) An application for a variance, in conformance with Subsection 16 shall be submitted to the Town Planning Commission by filling a copy of the application with the Town Clerk or designated official. The Planning Commission will make a recommendation to the Town Board to approve or deny the application based on whether the application fulfills points one and two from B above.
- (E) In granting variances, the Town Board may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties. A variance may be issued for an indefinite duration or for a specified duration only.

**7-3-15: AMENDMENTS AND ADDITIONS TO THE OFFICIAL ZONING MAP AND ZONING REGULATIONS.**

- (A) Rezoning:
  - (1) Amendments to the Official Zoning Map involving any change in the boundaries of an existing zoning district, or changing the designation of a district, shall be allowed only upon a determination following public hearing that the following criteria are met:
    - (a) the amendment is not adverse to the public health, safety and welfare, and
    - (b)
      - (1) the amendment is in substantial conformity with the future Master Plan, or
      - (2) The existing zoning is clearly erroneous, or

- (3) Conditions in the area affected or adjacent areas have changed materially since the area was last zoned.
  - (4) No spot zoning will be permitted.
- (2) Rezoning may be requested or initiated by the Town, the Planning Commission, or the owner of any legal or equitable interest in the property or his representative. The area considered for rezoning may be enlarged by the planning Commission on its own motion over the area requested in the application to the Zoning Regulations shall submit an application on forms provided by the Town, accompanied by an application fee of \$50.00. The burden shall be on the applicant to show that the criteria of this Subsection have been met. No fee or formal application is required for action initiated by the Town or Planning Commission.
- (B) Zoning of Additions:
- (1) The Planning Commission may upon annexation recommend to the Town Council a zoning district designation for all property annexed to the Town not previously subject to Town zoning. Proceedings concerning the zoning of property to be annexed may be commenced at any time prior to the effective date of the Annexation Ordinance.
  - (2) The zoning designation for newly annexed property shall not adversely affect the public health, safety or welfare.
- (C) Legislative Zoning: Comprehensive review and reenactment of all or a significant portion of the Official Zoning Map shall be a legislative action and shall not be required to meet any criteria set out in this Subsection.
- (D) Amendments to these regulations may be made only by ordinance.
- (E) All proposals to amend the Official Zoning Map or these Zoning Regulations may be referred to the Planning Commission for recommendation.
- (F) Prior to adoption of any ordinance amending the Official Zoning Map or these Regulations, a public hearing shall be held before Town Board, notice of which shall be published at least fifteen (15) days in advance, at applicant's expense.
- (G) In case a protest against such ordinance is filed with the Town Clerk, at least 24 hours prior to Town Board's vote on the ordinance, and is signed by the owners of 20 percent or more of the area of the land which is subject to the proposed change or 20 per cent or more of the area of land extending a radius of 100 feet from the

land which is subject to the proposed change, disregarding intervening public streets and alleys, such changes shall not become effective except by formal vote of 2/3 of all members of Town Board.

7-3-16:

**REVIEW PROCEDURE: APPEALS, APPLICATIONS AND REQUIRED HEARINGS:**

- (A) An appeal from any final order or decision of the Town Planning Commission or Town Board may be taken to the Board of Adjustment by filing with the Town Clerk or designee and with the Board of Adjustment by any person aggrieved. The appeal filing shall specify the grounds of the appeal.
- (1) An appeal must be taken within 30 days after the date of the decision or order appealed from.
  - (2) Whenever an appeal is filed, the Clerk or designee shall transmit to the Board of Adjustment all the papers constituting the record relating to the action appealed from.
  - (3) An appeal stays all actions by the Town seeking enforcement of or compliance with the order or decision appealed from, unless the Town certifies to the Board of Adjustment that a stay would, in their opinion cause imminent peril to life or property.
  - (4) The Board of Adjustment may reverse or affirm or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the case before it.
- (B) Hearings Required on Appeals and Applications: Before making a decision on an appeal or an application for a variance, conditional use permit, or a change in a nonconforming use, the Board of Adjustment, the Planning Commission or the Town Board shall hold a hearing on the appeal or application.
- (1) A hearing shall be set before the appropriate Board after receipt by the Town of a properly completed application or appeal form and any other required information.
  - (2) Notice of Hearing shall be posted at Town Hall ten (10) days before the hearing, in addition to any other notice required by Town regulations.
  - (3) Notice shall be given to neighboring property owners by mailing a written notice not later than ten (10) days before the hearing to those persons who

have listed for taxation real property any portion which is located within 300 feet of the lot that is the subject of the application or appeal.

- (4) At the hearing scheduled, the applicant is required to appear and other interested parties are encouraged to appear and present such evidence and testimony as they may desire. Anyone presenting evidence or testimony shall be subject to cross-examination by other interested parties, although the Reviewing Board may limit testimony, evidence, and cross-examination which is merely cumulative and is not required to follow any set procedure during the hearing, nor to strictly follow the Rules of Evidence as applied by the Courts. The hearing may be tape recorded or other wise electronically recorded. The applicant, or other interested party may, if he desires, have the hearing recorded by a court recorder, at his expense. The hearing may be continued from time to time as necessary. The burden is upon the applicant in all cases to establish that all applicable criteria for any action are met, including proper notice.
- (5) The Reviewing Board shall announce its decision within twenty (20) days of the completion of the hearing. It shall be necessary for the Reviewing Board to provide written findings or conclusions. The decision of the Reviewing Board with respect to requests for approval of a variance, conditional use, or change in a nonconforming use, or appeal shall be final, subject only to review by certiorari in the courts. The Town shall have the right to appeal any such decision by the courts. Upon filing of an appeal or request for review in the courts, the Town shall cause a transcript of any tape recording of the hearing to be made and certified to the court, and the party filing such appeal or such review, shall pay the Town the reasonable cost incurred in producing such transcript, unless such party has a transcript produced by a court reporter at his expense.
- (6) The reviewing Board may approve the requested action only upon finding that all applicable criteria and requirements of these Zoning Regulations or other Town ordinances have been met. If it determines that such criteria has not been met, the application shall be denied. The application may be granted upon conditions or limitations which the Reviewing Board determines are necessary in order to insure that the applicable criteria are met. Such conditions or limitations shall be provided to the applicant and interested parties, in writing, as part of the decision.

7-3-17:

**ENFORCEMENT AND ADMINISTRATION.**

- (A) The Dove Creek Town Council or the person designated by the Town Council shall be responsible for the interpretation, administration and enforcement of the

provisions of these Regulations, as amended, the Official Zoning Map, as amended, and of any decisions entered by the Planning Commission, Board of Adjustment or Town Council, pursuant to this Section.

- (B) No building permit, occupancy permit, or other permit or license shall be issued, nor shall any other action of approval be taken or allowed by the Town for any property which is not in compliance with the provisions of these Zoning Regulations, and any decision issued pursuant hereto.
- (C) The Town may maintain an action in a court of competent jurisdiction to enjoin any violation of these Zoning Regulations or of the terms of any decision entered pursuant to this Section.
- (D) Any action which reduces the area of any site, lot, or tract in violation of the minimum dimensional requirements of these regulations shall be unlawful.
- (E) It shall be unlawful to violate any of the provisions of these Zoning Regulations or the terms of any decision entered pursuant to this Section. Any person convicted of such a violation may be punished by a fine of up to three hundred (\$300) dollars, or a jail sentence of up to ninety (90) days, or both such fine and imprisonment; provided, however, that no person under the age of eighteen (18) years shall be subject to any term of imprisonment, except for contempt of Court. Each day any violation continues shall constitute a separate violation.
- (F) Continuing violations of this Section, the terms of any decision issued pursuant to this Section, or any subdivision plat restrictions, are hereby declared to be a nuisance and may be abated in any lawful manner.

**7-3-18: FEES AND COSTS.**

- (A) The following fees shall be submitted with respect to the indicated application, request, or action:
  - (1) Conditional Use Permit pursuant to Subsection 12: \$25.00
  - (2) Change in a Nonconforming Use pursuant to Subsection 13: 25.00
  - (3) Variances and Appeals pursuant to Subsection 14: 25.00
  - (4) Rezoning pursuant to Subsection 15: 25.00
  - (5) Other reviews conducted pursuant to the Review Procedure: of Subsection 16: 25.00

- (B) In addition to the above fees, the applicant shall reimburse the Town for all out-of-pocket costs incurred during the review including legal fees, postage, notice and publishing costs, map costs, engineering costs, etc. The Town shall bill the applicant periodically as such costs are incurred. Payment is due within 30 days. No plat shall be recorded, improvement accepted, lien released, building permit issued, tap approved or other final approval action taken until all fees then due are paid to the Town. Such fees may be certified to the County Treasurer for collection as delinquent charges against the property concerned.

**7-3-19: BOUNDARIES OF DISTRICTS:**

- (A) Where uncertainties exist with respect to the boundaries of the various districts, as shown on the Official Zoning Map, the following rules shall apply:
- (1) The district boundaries are either streets or alleys unless otherwise shown, and where the designation on the map accompanying and made a part of this Ordinance indicates that the various districts are approximately bounded by street or alley lines said street or alley shall be construed to be the boundary of such district.
  - (2) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, construed to be lot lines; and where the designation on the map accompanying and made part of this Ordinance indicates that the various districts are approximately bounded by lot lines, said lot lines shall be construed to be the boundary of such district, unless said boundaries are otherwise indicated on the map.

Continued from Ordinance #180 – Zoning Regulations

In accordance with the statutes of the State of Colorado, First reading of the ordinance was on the 17<sup>th</sup> day of June 1999 at 8:00 p.m. at the regularly scheduled Town of Dove Creek Board Meeting and was duly published in the Dove Creek Press in accordance with the law.

A second reading and public hearing was held and tabled on the 15<sup>th</sup> day of July 1999.

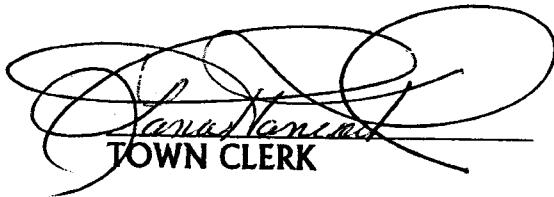
Public input for changes that were made to Ordinance #180 was held on the 18<sup>th</sup> day of May 2000 and duly published in the Dove Creek Press in accordance with the law.

A public hearing for the changes to the ordinance was held on the 20<sup>th</sup> day of July 2000 and duly published in the Dove Creek Press in accordance with the law.

TOWN OF DOVE CREEK

  
MAYOR

ATTEST:

  
TOWN CLERK

I, Lana Hancock, Town Clerk of the Town of Dove Creek, Colorado hereby certify that the foregoing is a true copy of the Ordinance unanimously passed by the Board of Trustees of the Town of Dove Creek, Colorado with a quorum being present on the 20<sup>th</sup> day of July 2000.