

Chapter 14.05

SUBDIVISIONS

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Part 1
General Provisions

14.05.010 Types of Subdivisions.

A. The division of land into separate parcels, lots, sites, tracts or interests is a subdivision and is regulated by the provisions of Title 14 of the Town of De Beque Municipal Code.

B. Major subdivisions are subdivisions that result in the creation of more than four (4)

parcels, lots, sites, tracts or interests out of the property as it existed prior to any subdivision.

C. The division of lots or parcels of previously subdivided land is a resubdivision. Resubdivisions are reviewed as major subdivisions.

D. The division of previously unsubdivided land into four (4) or fewer separate parcels, lots, sites, tracts or interests is a minor subdivision.

E. The creation of condominium units constitutes the creation of separate interests and is considered a subdivision action.

F. The correction of technical errors on subdivision plats or the adjustment of lot lines is accomplished by the preparation and processing of an Amended Plat.

14.05.020 Major Subdivisions. The design and development of major subdivisions shall conform in every respect to the criteria and procedures of Title 14, any other design requirements or engineering standards adopted by the Town, and any other applicable requirements of the Town of De Beque. Major subdivisions will be reviewed in accordance with Chapter 14.06 of this Title 14. The review process for major subdivisions consists of separate reviews of the Sketch Plan and the Final Plan which are reviewed sequentially; that is, an application for a Final Plan may be submitted only upon completion of the Sketch Plan review process. Both Sketch Plans and Final Plans are reviewed by the Planning Commission and the Board of Trustees. Prior to submitting any application for approval of a major subdivision, the applicant shall meet with the Town Clerk for a preapplication conference pursuant to Section 14.06.040.

The purpose of the major subdivision review process is to evaluate the design of the proposed subdivision and to ensure that future residents or occupants of the subdivided property can be safely, efficiently and adequately served by public facilities, services and utilities and that the residential and nonresidential land uses conform to all land use regulations of the Town of De Beque. The major subdivision review process does not establish types of land uses which are determined by the zoning regulations of this Title 14.

14.05.030 Minor Subdivisions. The design and development of minor subdivisions shall conform in every respect to the criteria and procedures of Title 14, any other design requirements or engineering standards adopted by the Town, and any other applicable requirements of the Town of De Beque. Minor subdivisions will be reviewed in accordance with Chapter 14.06 of this Title 14. Minor subdivisions will be reviewed by the Planning Commission and the Board of Trustees as described in Chapter 14.06.

The purpose of the minor subdivision review process is to evaluate the design of the proposed subdivision and to ensure that future residents or occupants of the subdivided property can be safely, efficiently and adequately served by public facilities, services and utilities and that the residential and nonresidential land uses conform to all land use regulations of the Town of De Beque. The minor subdivision review process does not establish types of land uses which are determined by the zoning

regulations.

14.05.040 Resubdivisions. Resubdivisions are reviewed in the same manner as a major subdivision with the same purposes. To the extent that submittal information, otherwise required in Chapter 14.07, was submitted as part of the original subdivision proposal and is adequate by current standards, the applicant for approval of a resubdivision does not need to submit the information again and may reference such submittal information in the resubdivision application. The Town Clerk and the Town Engineer will determine the technical adequacy of previously submitted information.

14.05.050 Amended Plats. Amended Plats do not create additional lots or interests in property but are subdivision actions to the extent that lot lines may be adjusted or relocated by the Amended Plat process. Amended Plats are also used to correct errors on a subdivision plat. Amended Plats are reviewed in the same manner as Final Plan applications, by the Town Engineer, Town Clerk and appropriate review agencies prior to acceptance by the Planning Commission and Board of Trustees pursuant to the requirements of Chapter 14.06.

The first purpose of the Amended Plat review is to ensure the technical accuracy of the Amended Plat. The second purpose of the Amended Plat review is to maintain the record of associated real estate activities.

Lot lines may be eliminated as part of the lot consolidation process pursuant to subsection 14.03.090(E).

Part 2 Additional Subdivision Provisions

14.05.060 Land Dedication and Fees in Lieu of Dedication. As further specified in Section 14.01.110, for every subdivision the Board of Trustees shall require the dedication of certain sites for park and recreation use, and may require reservation of sites for school and other public purposes. Land dedications may include land within the one hundred (100) year floodplain, national and State historic or natural features, and proposed public areas set aside in State, regional, County or Town comprehensive plans. The Board of Trustees may, at its sole discretion, require a subdivider to pay a fee in lieu of the dedication of land otherwise required by these Regulations. The provisions for such cash payments in lieu of dedication are set forth in subsection 14.01.110(E).

14.05.070 Subdivision Design Standards. Subdivision design standards are found in a separate resolution adopted by the Town. In addition, the Town Engineer shall maintain subdivision, traffic, utility, and other such design and construction standards necessary to carry out the purposes of these Regulations. All requirements of these Regulations, other regulations of the Town of De Beque and the design and construction standards of the Town Engineer shall be complied with by the subdivider.

14.05.080 Minimum Infrastructure Requirements. The following improvements shall be constructed at the expense of the subdivider, and further stipulated in a Subdivision Improvements Agreement (Section 14.01.160), in a manner approved by the Town Board of Trustees which is consistent with design standards and construction specifications approved by the Board of Trustees as well as sound engineering and construction practices. Where specific requirements are delineated in other sections of these Regulations, the more specific requirements shall apply unless the Town Board of Trustees and the Town Engineer determine otherwise. The following improvements constitute the minimum requirements:

A. Road grading, subsurface material and preparation, road surfacing in, through or abutting the subdivision. All roads in and abutting the subdivision must be hard surfaced (paved);

B. Curbs, gutters, and sidewalks;

C. Sanitary wastewater laterals and mains. The construction of sanitary wastewater facilities shall conform in all respects with all laws, regulations and specifications of State and local health departments and the Town of De Beque. A public wastewater collection system connected to the Town's collection and treatment system shall be required of all developments;

D. Storm drainage system;

E. Water distribution system. All water distribution systems shall comply in all respects with all laws, regulations and specifications of State and local health departments and the Town of De Beque. All developments shall be designed to be served by the Town water treatment and distribution system;

F. Fire hydrants. Fire hydrants shall be placed and have fire flow capabilities in accordance with the requirements of the Town;

G. Street signs and other required traffic control devices;

H. Permanent reference monuments and monument boxes;

I. Street lights; and

J. Other facilities as may be specified in these Regulations or required by the Town of De Beque Board of Trustees.

Part 3
Modification or Vacation of Previously Approved Subdivisions

14.05.090 Legislative Declaration. The Board of Trustees finds and determines that some subdivisions within the Town, which have been previously approved, or were approved by Mesa County before being annexed into the Town, have not been developed, and some such subdivisions were recorded prior to the enactment of current subdivision regulations, master plans, zoning regulations, building codes, State and local health regulations, designated matters of State interest, and other applicable laws and regulations. The public health, safety, and welfare require the Town to periodically review such abandoned or uncompleted subdivisions, and it is the purpose of this Part 3 of Chapter 14.05 to provide a mechanism for the review of undeveloped or non-conforming subdivisions to bring such subdivisions, or any parts thereof, into compliance with current regulations and provisions of law, and if such modifications are not feasible, to vacate undeveloped and non-conforming subdivisions, or any part thereof, to prohibit sales of lots therein, and to vacate lands within the subdivision which were dedicated to the public use.

14.05.100 Definitions. As used in this Part 3 of Chapter 14.05, unless the context otherwise requires: "subdivision" is defined in Section 31-23-201(2), C.R.S.

14.05.110 Review of Subdivisions. The Planning Commission, at the request of the Town Clerk, upon its own motion, or at the direction of the Board of Trustees, may initiate review of any subdivision within the Town. This review will follow the procedures set forth in this Part 3 of Chapter 14.05, and shall be for the purpose of determining whether or not the subdivision is undeveloped, abandoned, or no longer complies with regulations.

14.05.120 When A Subdivision Is Considered Undeveloped or Abandoned. For the purposes of this Section, lands described in the plat of any subdivision, or any part thereof, under review shall be considered to be undeveloped or abandoned if any vested property rights acquired pursuant to Section 14.01.070 of this Title and Article 68 of Title 24, C.R.S. or common law have expired or been forfeited and any one (1) or more of the following conditions are found by the Planning Commission to exist on such lands:

A. The time limit for the completion of public improvements, or subdivision approval, as contained in any Subdivision Improvements Agreement, amendment thereof, or extension thereto, has expired or lapsed;

B. Roadways which were intended to provide access into and travel within the subdivision have not been or are not being constructed to meet specifications at the time of the review;

C. Facilities for the supply of domestic or industrial water to lots created by the subdivision have not been or are not being constructed or permits therefor have not been issued for installation on the lands;

D. Wastewater collection facilities and, if required, storm drainage facilities, or other public improvements required by the Subdivision Improvements Agreement have not been or are not being constructed;

E. Buildings have not been or are not being constructed within the subdivision, and no permits have been issued for the construction of buildings upon the lands;

F. No substantial amounts of money have been spent by the developer or others within three (3) years prior to the review in reliance upon the approval of the subdivision;

G. The subdivision contains partially completed public improvements which, in their unfinished state, constitute a hazard or danger to the members of the public; or

H. No individual lots or parcels have been sold within the subdivision.

14.05.130 Hearing to Determine Status. If the Planning Commission makes an initial determination that a subdivision, or any part thereof, is undeveloped, abandoned or non-conforming, the Planning Commission shall hold a hearing to determine whether or not the subdivision, or any part thereof, should be modified, re-platted, or vacated, or all or part of the lands within the subdivision dedicated to public use should be vacated. Notice of the hearing shall be given as required in Section 14.01.060 of the De Beque Municipal Code; in addition, however, notice shall be given to the holders of any security interest, mortgage, deed of trust, or lien of record against the property. The Town shall also attempt to give notice to any utility or other entity using rights-of-way or easements which appear on the plat of the subdivision. A copy of the public notice shall also be recorded with the Mesa County Clerk and Recorder. The failure to give adequate notice of the hearing shall not be grounds to invalidate any Planning Commission action under the provisions of this Part 3 of Chapter 14.05.

14.05.140 Modification or Vacation of Subdivision Plats.

A. At the time of the hearing conducted pursuant to Section 14.05.130 hereof, the Planning Commission shall hear evidence and testimony from any interested person regarding the status of the subdivision and, if the Planning Commission determines the subdivision is undeveloped, abandoned or non-conforming, shall determine the most appropriate means to bring the subdivision into compliance with law.

B. If the Planning Commission determines, following the hearing, that a subdivision, or any part of a subdivision, cannot be modified in accordance with the subdivision regulations, master plans, ordinances, codes, and other State and local regulations, it may recommend the subdivision be vacated.

C. The findings and conclusions of the Planning Commission shall be transmitted in

written form to the Board of Trustees, which shall consider the matter at its next regularly scheduled meeting.

D. Any action taken by the Board of Trustees to carry out the provisions of this Section shall be by ordinance. In the event the subdivision is a planned unit development, and the plan must be released, removed or modified, the ordinance shall contain the findings of fact required by Section 24-67-106(3), C.R.S.

E. The vacation of any subdivision, or any part thereof, and of all or any part of the lands within the subdivision dedicated for public use, shall be conducted according to the applicable law and this Title. In no event shall the Board of Trustees vacate any easement, right-of-way or roadway if doing so would jeopardize the rights of the public or any public utility. The vacation of lands dedicated for parkland purposes, which have not been used for such purposes since subdivision approval, shall not be considered a sale or conveyance.

F. If the ordinance vacates the subdivision approval, a certified copy of the ordinance shall be filed and recorded by the Town Clerk with the same offices as required for subdivision approval, including the Mesa County Clerk and Recorder.

G. The adoption and recording of an ordinance vacating a subdivision or any part thereof shall operate to nullify the force and effect of the recording of the subdivision plat, and no lots, blocks or parcels within the vacated subdivision may thereafter be sold or conveyed.

H. The modification or vacation of a subdivision shall not affect title to the land within the vacated portion, except for title to lands dedicated to the Town according to the original subdivision plat, which property shall vest according to the provisions of Section 43-2-302, C.R.S., and the terms of the ordinance.

I. Nothing contained within this Part 3 of Chapter 14.05 shall prohibit the voluntary application by the owner of an interest in lands within an undeveloped, abandoned or non-conforming subdivision to seek voluntary vacation of all or part of said subdivision. In the event a petition to vacate a subdivision is presented to the Planning Commission, signed by the owners of record of the property and the holders of all valid security interests, the additional notice requirements set forth in this Ordinance shall not apply.

J. If all or any part of a subdivision is vacated as provided herein, the Planning Commission shall then consider whether the zone district or districts shall be modified accordingly, in the manner provided by law.

K. If all or any part of subdivision is vacated as provided herein, the Planning Commission shall also consider what effect shall be given any cash paid by the original developer in lieu of parkland dedication, water rights dedication, or any other fees required at the time of original subdivision approval. In the event the Planning Commission finds it would be appropriate to allow

these fees to remain as a credit against the real property, the Commission shall so state in its recommendation to the Board of Trustees. In no event, however, shall any such cash or other consideration paid remain a credit for a period of greater than twenty (20) years from the date of original subdivision approval.

L. If all or any part of the subdivision is vacated or modified as provided herein, the Planning Commission shall also recommend to the Board of Trustees the disposition of any security given for the completion of public improvements, including any mortgages on the subject property, and shall recommend what action should be taken with respect to the Subdivision Improvements Agreement, and whether it should be released against all of the property, a portion of the property, or only that portion of the property which has been successfully developed.