

## **TOWN OF DE BEQUE ORDINANCE NO. 532**

**(Series 2023)**

### **AN ORDINANCE AMENDING THE DEBEQUE MUNICIPAL CODE, SECTION 14.05.050, 055, AND RELATED PROVISIONS PERTAINING TO THE APPROVAL OF AMENDMENTS TO SUBDIVISION PLATS, BOUNDARY LINE ADJUSTMENTS, AND VACATING PUBLIC STREETS, RIGHTS-OF-WAY, OR EASEMENTS.**

The following describes the intent and purpose of this ordinance.

- a. From time to time the Town of De Beque revises its ordinances to address community concerns or improve Town administration.
- b. Landowners occasionally find it useful to amend a recorded subdivision plat to adjust boundary lines, alter the alignment of streets, or vacate unneeded easements.
- c. Fundamental fairness requires that persons whose property rights may be affected by an alteration of a recorded plat or change to a right-of-way be given notice, an opportunity to be heard, and a right to participate in public proceedings.
- d. Conversely, the Town recognizes that some plat amendments, boundary line adjustments, or right-of-way vacations are uncontroversial, and warrant a streamlined approval process.
- e. It is important that Town staff have an opportunity to provide input in these land use proceedings for the purpose of protecting the public interest.
- f. These concerns were discussed before the Planning Commission on February 14, 2023.

THEREFORE, the De Beque Municipal Code is amended to read as follows:

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 manner specified in Section 14.05.055, below. 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).

#### 14.05.55 Boundary Adjustments and Subdivision Plat Amendments.

A. Purpose and Submittals. The purpose of this Section is to provide simplified procedures for applications for Boundary line adjustments and subdivision plat amendments. . The requirements for subdivision sketch plans and subdivision final plans set forth in Chapter 14.06 shall not apply. No public land dedication shall be required for a boundary line adjustment.. Certain submittal requirements as set forth in Chapter 14.07 may be waived by the Town when deemed unnecessary or not applicable. Approval criteria for boundary line adjustments shall include the criteria in this section and those set forth in Section 14.06.120(B). However, the installation of public improvements such as streets, water mains and wastewater collection mains shall not be required.

B. Number of Affected Lots. In a boundary line adjustment the number of parcels or lots may remain the same or be decreased, but not increased. Not more than five (5) lots or parcels shall be included in a boundary line adjustment request. There is no numerical limitation on the number of affected lots for a plat amendment.

C. Application Signed by Lot Owner(s). An application for a boundary line adjustment or plat amendment shall include the common submittal requirements set forth in Section 14.07.020 unless waived by the Town. In addition, the application shall be accompanied by a proposed final subdivision plat meeting the requirements of Section 14.07.100(A). The application must clearly describe the purpose of the change and depict the proposed change relative to the boundaries or configuration of the affected lots. An application for a boundary line adjustment or plat amendment must be signed by at least one fee owner of record of the lands that are the subject of the application, or which are adjacent to the affected lots.

D. Burden of Proof. The applicant has the burden of showing that: i) there is good cause for the change or amendment; ii) no person will be materially injured by the proposed change(s); and iii) the public interest will not be harmed by the proposed change(s) or amendment(s).

E. Planning Commission Review. Advisory review of a boundary line adjustment or plat amendment shall be by Town staff and the Planning Commission pursuant to the procedures specified in Section 14.06.060 through 100. The applicant shall provide written notice of the application to adjacent property owners as otherwise provided by Section 14.01.060. The Town Administrator, or a designee, shall review the application and proposed final plat for compliance with all applicable Town regulations.

F. Administrator Decision. The Town Administrator is vested with authority to approve the application approve the application with conditions, or deny the application. Alternatively, the Administrator has discretion to refer a novel, complex, or contested application to the Board of Trustees for action (a Referral). The decision of the Administrator shall be in writing and: i) delivered to the applicant and any interested persons who have participated in the application; and ii) published on the Town website.

G. Request for Public Hearing. Following the Administrator decision, any interested person may request a public hearing before the Board of Trustees. A request for a public hearing before the Board of Trustees shall be made in writing and delivered to the Town no later than fifteen (15) calendar days from the date of the Administrator decision, except that in the case of an Administrator Referral, the application will be automatically sent to the Board of Trustees. The applicant is obligated to provide notice of the public hearing pursuant to Section 14.01.060. The public hearing shall be held promptly following a request for public hearing or Referral. In the absence of a timely request for public hearing or a Referral, the Administrator decision is final.

H. Trustees Decision. At the public hearing the Board of Trustees will review the application, the evidence, and applicable Code or other legal provisions, and it may approve the application, approve the application with conditions, or deny the application. The Board of Trustees decision must be in writing and is a final decision.

I. Performance Standards. All modified lot property lines or new property lines shall result in parcels or lots that conform with Colorado law and the De Beque Municipal Code. A modified plat or boundary line adjustment shall not be approved in a manner that would result in any parcel becoming a non-conforming lot. No plat modification or boundary line adjustment shall alter the area or dimensions of an existing lot unless the fee owner of that lot has consented to or joined in the request as an applicant.

J. Final Plat and Recording. After final approval, and before any modified lots may be conveyed, the applicant shall submit to the Town a final version of the amended plat. The form of the final plat must be approved by Town staff for conformity with all approval requirements. Upon signature by the designated Town official, the approved final plat shall be recorded with the Mesa County Clerk and Recorder. Recording shall be completed no later than sixty (60) days from the date of final approval, unless extended in writing by the Board of Trustees upon a showing of good cause. An amended plat that is not timely recorded shall be void and of no effect.

#### 14.55.058 Vacating a Street, Easement, or Right of Way.

A. Review Procedure. A petition to vacate some or all of a public street, right-of-way, or easement shall be reviewed pursuant to the provisions of Section 14.55.055, except as modified by this Section 058.

B. Ordinance Required. The Town shall only vacate a public street, right-of-way, or easement, whether built or unbuilt, pursuant to an ordinance adopted by the Board Trustees after a public hearing. The applicant is obligated to provide notice of the public hearing pursuant to Section 14.01.060. The ordinance shall contain a legal description or plat depicting the vacated area, which shall be timely recorded with the land Mesa County Clerk and Recorder.

C. Retained Easement. Where a public street, right-of-way, or easement is vacated, the Town may retain or authorize a private easement for the purpose of: i) existing or future public utilities; or ii) private access to adjacent parcels. No street, right-of-way, or easement vacation shall be approved which would leave any lot or parcel without direct access to an established public road, or a private access easement connecting to an established public road.

D. Vesting of Title. Upon vacating a public street, easement, or right of way, title to the vacated portion shall vest in adjacent properties in the manner otherwise provided by law, or as specified by the text of the ordinance.

This ordinance is approved by a majority of the De Beque Board of Trustees at a regularly scheduled meeting of the Board on April 25, 2023, at which meeting quorum was present. This ordinance shall take effect thirty (30) days from the date of publication.

TOWN OF DE BEQUE

Shanelle Hansen 4-25-23  
Shanelle Hansen, Mayor Date

ATTEST:

Lisa M. Rogers 04/25/2023  
Lisa Rogers, Town Clerk Date

