

TOWN OF DE BEQUE ORDINANCE NO. 539

SERIES 2023

AN ORDINANCE AMENDING CHAPTER 14.05 OF THE DE BEQUE MUNICIPAL CODE PERTAINING TO SUBDIVISIONS, AMENDED PLATS, CONDOMINIUM DEVELOPMENTS, LOT SPLITS, AND RELATED PROVISIONS.

- a. The Town of De Beque possesses the authority to regulate the subdivision of land pursuant to C.R.S. § 31-23-214 and other applicable law.
- b. From time to time the Town, through its Planning Commission, engages in review and updating of its land use code to improve its processes and respond to new developments.
- c. Town staff engaged in review of Chapter 14.05 of the De Beque land use code following review and input from the Planning Commission. The Town held a duly noticed public hearing and received input from persons interested in the changes to Chapter 14.05.
- d. The changes to Chapter 14.05 are intended to clarify the process for condominium approval, which was not fully developed in the prior code.
- e. The changes to Chapter 14.05 provided for a streamlined review process for routine plat amendments, boundary line adjustments, and lot splits.
- f. The Town finds that the changes to Chapter 14.05 are reasonable, conform to the public interest, and the intent and purposes of the land use code.

NOW THEREFORE, Chapter 5.22 of the De Beque Municipal Code is amended to read as stated in **Exhibit A**, attached.

Approved and adopted by a majority of the Town of De Beque Board of Trustees at a duly noticed public meeting. This ordinance shall take effect thirty (30) days from the date of publication.

TOWN OF DE BEQUE

By: _____
Mayor Shanelle Hansen

Date

ATTEST:

By: _____
Lisa Rogers, Clerk

Date

Attachment: Exhibit A

-End of Document-

CHAPTER 14.05: SUBDIVISIONS

SECTIONS

- 14.05.010: General Provisions
- 14.05.020: Types of Subdivisions
- 14.05.030: Major Subdivisions
- 14.05.040: Minor Subdivisions
- 14.05.050: Resubdivisions
- 14.05.060: Amended Final Plats
- 14.05.070: Boundary Line Adjustments
- 14.05.080: Lot Splits
- 14.05.090: Condominium or Townhome Subdivisions
- 14.05.100: Vacating a Public Street, Right-of-Way, or Easement
- 14.05.110: Administrative Review
- 14.05.120: Land Dedication and Fees in Lieu of Dedication
- 14.05.130: Subdivision Design Standards
- 14.05.140: Minimum Infrastructure Requirements
- 14.05.150: Modification or Vacation of Previously Approved Subdivisions

14.05.010: GENERAL PROVISIONS

- A. The division of land into separate parcels, lots, sites, tracts, or interests is a subdivision and is regulated by the provisions of this Chapter and all other applicable requirements of the Town of De Beque's Municipal Code.
- B. 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 Final Subdivision Plat shall not be approved in a manner that would result in any parcel becoming a non-conforming lot. No Final Subdivision Plat 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.
- C. Certain submittal requirements for subdivision applications may be waived by the town when deemed unnecessary or not applicable.

14.05.020: TYPES OF SUBDIVISIONS

- A. **Major Subdivision**
The creation of more than four (4) parcels, lots, sites, tracts, or interests out of land or a building as it existed prior to any subdivision.
- B. **Minor Subdivision**
The division of previously unsubdivided land or a building into four (4) or fewer separate parcels, lots, sites, tracts, or interests. A Minor Subdivision may include the extension or construction of new public infrastructure.
- C. **Resubdivisions**
The division of lots or parcels of previously subdivided land. Resubdivisions are reviewed as Major Subdivisions.
- D. **Amended Final Plat**
The correction of technical errors on an approved Final Subdivision Plat. Amended Plats do not create additional lots or interests in property but are subdivision actions to the extent that property lines may be adjusted or relocated.
- E. **Boundary Line Adjustment**
Adjusting property lines between adjacent parcels or lots. A Boundary Line Adjustment typically results in the increasing of square footage on one (1) or more parcels or lots while reducing the square footage of the adjacent parcel(s) or lot(s). The number of parcels or lots may be decreased, but not increased, in a Boundary Line Adjustment. Not more than five (5) parcels or lots can be included in a Boundary Line Adjustment.
- H. **Lot Split**
The subdivision of one (1) lot, tract, parcel, or building into two (2) lots, tracts, parcels, or interests where no new public infrastructure is required.
- E. **Condominium or Townhome Subdivision**
The creation of condominium or townhome units constitutes the creation of separate interests and is considered a subdivision action. This includes the conversion of rental units in an existing

structure into separate interests.

(Amended Ord. 419, § 2 (2011))

14.05.030: MAJOR SUBDIVISIONS

A. Purpose

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 non-residential 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.

B. General Provisions

The design and development of Major Subdivisions shall conform in every respect to the criteria and procedures of this Title, any design requirements or engineering standards adopted by the town, and any other applicable town requirements.

C. Submittal Requirements

1. Sketch Plan. An application for a Sketch Plan must include the following:
 - i. Common submittal requirements set forth in Section 14.07.202.
 - ii. The information and materials described in Section 14.07.090.
2. Final Subdivision Plan. An application for a Final Subdivision Plan must include the following:
 - i. Common submittal requirements set forth in Section 14.07.202.
 - ii. The information and materials described in Section 14.07.100.

D. Pre-Application Conference Required

Prior to the submittal of an application for a Major Subdivision, the applicant shall request and participate in a Pre-Application Conference with the town, in accordance with Section 14.06.040.

E. Review Process

A request for a Major Subdivision will be reviewed in accordance with Chapter 14.06 of this Title. The review process for a Major Subdivision consists of two steps: Sketch Plan (Step 1) and Final Subdivision Plan (Step 2). A Sketch Plan and a Final Subdivision Plan are reviewed sequentially; that is, an application for a Final Subdivision Plan may only be submitted following the completion of the Sketch Plan review process.

Both Sketch Plans and Final Subdivision Plans are reviewed by the Planning Commission and the Board of Trustees, in accordance with Chapter 14.06.

14.05.040: MINOR SUBDIVISIONS

A. Purpose

The purpose of the Minor Subdivision review process is to evaluate the design of a 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.

B. General Provisions

1. The design and development of Minor Subdivisions shall conform in every respect to the criteria and procedures of this Title, any design requirements or engineering standards adopted by the town, and any other applicable town requirements.
2. A tract, parcel, lot, or building may only be subdivided via the Minor Subdivision process one (1) time. If a tract, parcel, lot, or interest was created by a Minor Subdivision, it may not be further subdivided by the Minor Subdivision process.

C. Submittal Requirements

An application for a Minor Subdivision must include the following:

1. Common submittal requirements set forth in Section 14.07.202.
2. The information and materials required for a Final Subdivision Plan described in Section 14.07.100.

D. Pre-Application Conference Required

Prior to the submittal of an application for a Minor Subdivision, the applicant shall request and participate in a Pre-Application Conference with the town, in accordance with Section 14.06.040.

E. Review Process

A request for a Minor Subdivision will be reviewed in accordance with Chapter 14.06 of this Title. A request for a Minor Subdivision will be reviewed by the Planning Commission in accordance with Chapter 14.06.

If a Subdivision Improvements Agreement is required as part of a Minor Subdivision, such agreement shall be prepared by the applicant and reviewed by the Board of Trustees in accordance with the applicable provisions of Chapter 14.01.

14.05.050: RESUBDIVISIONS

A. Submittal Requirements

The submittal requirements for a Resubdivision application are the same as those for a Major Subdivision application set forth in Section 14.05.030.

To the extent that 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 a Resubdivision does not need to submit the information again and may reference such information in their application. The Town Planner and the Town Engineer shall be responsible for determining the technical adequacy of the information previously submitted.

B. Review Process

Resubdivisions are reviewed in the same manner as a Major Subdivision with the same purposes.

14.05.060: AMENDED FINAL PLATS

A. Submittal Requirements

An application for an Amended Final Plat (i.e., Amended Plat) must include the following:

1. Common submittal requirements set forth in Section 14.07.020.
2. The information and materials required for a Final Subdivision Plat described in Subsection 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.

B. Burden of Proof

The applicant has the burden of showing that:

1. There is good cause for the change or amendment;
2. No person will be materially injured by the proposed change(s); AND,
3. The public interest will not be harmed by the proposed change(s) or amendment(s).

C. Review Process

A request for an Amended Plat is reviewed via the Administrative Review process specified in Section 14.05.110. The purpose of the Amended Plat review is to: (1) ensure the technical accuracy of the Amended Plat; and, (2) maintain the record of associated real estate activities.

14.05.070: BOUNDARY LINE ADJUSTMENTS

A. General Provisions

1. In a Boundary Line Adjustment the number of parcels or lots may remain the same or be decreased, but not increased.
2. Not more than five (5) lots or parcels shall be included in a Boundary Line Adjustment request.

B. Submittal Requirements

An application for a Boundary Line Adjustment must include the following:

1. Common submittal requirements set forth in Section 14.07.020.
2. The information and materials required for a Final Subdivision Plat described in Subsection 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.

C. Burden of Proof

The applicant has the burden of showing that:

1. There is good cause for the change or amendment;

2. No person will be materially injured by the proposed change(s); AND,
3. The public interest will not be harmed by the proposed change(s) or amendment(s).

D. Review Process

A request for a Boundary Line Adjustment will be reviewed in accordance with the Administrative Review process set forth in Section 14.05.110.

14.05.080: LOT SPLITS

A. General Provisions

1. If a proposed Lot Split requires the extension of, or new, public infrastructure it is not eligible for the Lot Split process and must be reviewed pursuant to the Major Subdivision process set forth in Section 14.05.040.
2. A tract, parcel, lot, or building may only be subdivided via the Lot Split process one (1) time. If a tract, parcel, lot, or interest was created by a Lot Split, it may not be further subdivided by the Lot Split process.

B. Submittal Requirements

An application for a Lot Split must include the following:

1. Common submittal requirements set forth in Section 14.07.020.
2. The information and materials required for a Final Subdivision Plat described in Subsection 14.07.100(A).
3. Any of the other information and materials required for a Final Subdivision Plan, set forth in Section 14.07.100, applicable to the proposed Lot Split such as, but not limited to, Declaration of Protective Covenants and Homeowners Association documents.

C. Review Process

A request for a Lot Split will be reviewed in accordance with the Administrative Review process set forth in Section 14.05.110.

14.05.090: CONDOMINIUM OR TOWNHOME SUBDIVISIONS

A. General Provisions

1. As part of a request to subdivide an existing structure into separate interests, the Town Planner, Planning Commission, and/or Board of Trustees may require the structure to come into compliance with the applicable requirements of the town's Municipal Code to safeguard the health, safety, and welfare of the public.

B. Submittal Requirements

An application for a Condominium or Townhome Subdivision must include the following:

1. Common submittal requirements set forth in Section 14.07.020.
2. The information and materials required for a Final Subdivision Plat described in Subsection 14.07.100(A). In addition to the requirements set forth in Subsection 14.07.100(A), the Final Subdivision Plat for condominium or townhouse units shall show the location of the building to

be subdivided.

3. Any of the other information and materials required for a Final Subdivision Plan, set forth in Section 14.07.100, applicable to the proposed Condominiumization such as, but not limited to, Declaration of Protective Covenants and Condominium Association documents.

C. Review Process

A request for a Condominium or Townhome Subdivision will be reviewed in accordance with the Administrative Review process set forth in Section 14.05.110 following provisions:

1. A Condominium or Townhome Subdivision resulting in the creation of no more than two (2) units shall follow the procedures for a Lot Split set forth in Section 14.05.080.
2. A Condominium or Townhome Subdivision resulting in the creation of three (3) or four (4) units shall follow the procedures for a Minor Subdivision set forth in Section 14.05.040.
3. A Condominium or Townhome Subdivision resulting in the creation of more than four (4) units shall follow the procedures for a Major Subdivision: Final Subdivision Plan set forth in Section 14.05.030.

14.05.100: VACATING A PUBLIC STREET, RIGHT-OF-WAY, OR EASEMENT

A. General Provisions

No public 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.

B. Submittal Requirements

A petition to vacate some, or all, of a public street, right-of-way, or easement must include the following:

1. Common submittal requirements set forth in Section 14.07.020.
2. A legal description and/or a Final Subdivision Plat, prepared in accordance with Subsection 14.07.100(A), for the area to be vacated.

C. Pre-Application Conference Required

Prior to the submittal of a petition to vacate some, or all, of a public street, right-of-way, or easement, the applicant shall request and participate in a Pre-Application Conference with the town, in accordance with Section 14.06.040.

C. 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 14.05.110, except as modified by this Section.

D. 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 and/or Final Subdivision Plat depicting the vacated area, which shall be timely recorded with the land Mesa County Clerk and Recorder.

E. 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:

1. Existing or future public utilities; OR,
2. Private access to adjacent parcels.

E. 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.

14.01.110: ADMINISTRATIVE REVIEW

A. Purpose

The purpose of this Section is to provide an efficient and simplified review procedure for the following types of subdivision applications:

1. Amended Final Plats;
2. Boundary Line Adjustments; AND,
3. Lot Splits.

B. Town Staff Review

Advisory review of an application shall be by town staff pursuant to the procedures specified in Sections 14.06.060 through 14.06.080.

C. Administrative Review and Decision

1. Within forty-five (45) calendar days of an application being deemed complete, in accordance with Section 14.06.070, the Town Administrator shall render a decision on an application. The Town Administrator is vested with authority to approve an application, approve an application with conditions, or deny an application.
2. The Town Administrator will consider the evidence presented by the applicant and other interested parties, review agency comments, recommendations of town staff and town consultants, and the review criteria, set forth in Subsection 14.06.120(B), as the basis for their decision.
3. The applicant shall be responsible for providing written notice of the date of the Administrative Decision to all property owners within two hundred feet of the subject property and if required by State Statute, owners or lessees of mineral estates. Such notice shall be provided in accordance with Section 14.01.060.
4. The decision of the Town 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's website.
- 5. At the discretion of the Town Administrator, a novel, complex, or contested application may be referred to the Board of Trustees for action, in accordance with Subsection 14.05.110(E).

D. Request for Public Hearing

1. Within fourteen (14) calendar days of the date of a decision by the Town Administrator, any aggrieved party may request a public hearing before the Board of Trustees. Such a request shall be made in writing and delivered to the town no later than fourteen (14) calendar days from the date of the Administrative decision. In the case of a referral by the Town Administrator, the application will be automatically sent to the Board of Trustees.
2. If a public hearing is requested by an aggrieved party, such party is responsible for providing notice of the public hearing pursuant to Section 14.01.060. If an application is referred to the Board of Trustees by the Town Administrator, the applicant is responsible for providing notice of the public hearing in accordance with Section 14.01.060.
3. Unless otherwise agreed upon, in writing, by the applicant, a public hearing with the Board of Trustees shall be held within forty-five (45) calendar days of a request or a referral by the Town Administrator.
4. In the absence of a timely request for a public hearing or a referral by the Town Administrator, the decision rendered by the Town Administrator shall be final.

E. Board of Trustees Review and Decision

At the public hearing, the Board of Trustees will review the application, the evidence presented by the applicant and other interested parties, review agency comments, recommendations of town staff and town consultants, the review criteria set forth in Subsection 14.06.120(B), and other applicable legal provisions, and shall issue a decision to uphold the Administrative decision, modify the Administrative decision, or deny the application. The Board of Trustees decision must be in writing and is a final decision.

F. Recording

1. After final approval by the Town Administrator or Board of Trustees, and before any modified lots may be conveyed, the applicant shall submit to the town a final version of a Final Subdivision Plat and any required supporting documents, such as, but not limited to, Declaration of Protective Covenants and Homeowners Association documents. The form of the final plat, and any required supporting documents, must be approved by town staff for conformity with all approval requirements. Upon signature by the designated town official, the approved Final Subdivision Plat and required supporting documents shall be recorded with the Mesa County Clerk and Recorder.
2. Recording of a Final Subdivision Plat and any required supporting documents shall be completed in accordance with Section 14.06.150.
3. Any Subdivision Final Plat and associated approval documents not recorded in a timely manner shall be void and of no effect.

14.01.120: LAND DEDICATION AND FEE IN LIEU OF DEDICATION REQUIREMENTS

As further specified in Chapter 14.01, 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. Alternatively, 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 Chapter 14.01.

14.01.130: 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.

14.01.140: SUBDIVISION DESIGN STANDARDS

The following improvements shall be constructed at the expense of the subdivider, and further stipulated in a Subdivision Improvements Agreement (refer to Chapter 14.01), 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. Streets

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). Streets shall also include curbs, gutters, sidewalks, and street lighting as required by the town.

C. Sewer

The construction of sewer 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 unless other system is specifically authorized in accordance with Title 8.

D. Stormwater Drainage

Drainage system(s) for stormwater runoff.

E. Water

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 unless other system is specifically authorized in accordance with Title 8.

F. Fire Protection

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

G. Signage

Street signs and other required traffic control devices.

H. Survey Monuments

Permanent reference monuments and monument boxes.

J. Other Facilities

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

14.05.150: MODIFICATION OR VACATION OF PREVIOUSLY APPROVED SUBDIVISIONS

A. 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 Section 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.

B. Definitions

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

C. Review of Subdivisions

Planning Commission, at the request of the Town Planner, 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 Section of Chapter 14.05 and shall be for the purpose of determining whether the subdivision is undeveloped, abandoned, or no longer complies with regulations. In the event three (3) or more Commission seats are vacant, and it becomes necessary to review a particular subdivision, the Board of Trustees shall conduct the review of and make the necessary determinations regarding the subdivision in question. All substantive and procedural requirements provided for in this Section, Chapter 5, Title 14, shall apply to the Board of Trustee's review under this Section.

(Ord. 483 § 2, Series 2016)

D. 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:

1. 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;
2. 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;
3. 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;
4. 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;
5. 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;
6. 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;
7. The subdivision contains partially completed public improvements which, in their unfinished state, constitute a hazard or danger to the members of the public; OR,
8. No individual lots or parcels have been sold within the subdivision.

E. 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 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, 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 Section of Chapter 14.05.

F. Modification or Vacation of Subdivision Plats

1. 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.

2. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. Nothing contained within this Section 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.
10. 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.

11. 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.
12. 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.