

RESOLUTION NO. 2010-045

**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
DIRECTING THE OURAY COUNTY PLANNING COMMISSION TO REVIEW
SECTION 9, "VISUAL IMPACT REGULATIONS" AND PROPOSED REVISIONS TO SECTION 9
OF THE OURAY COUNTY LAND USE CODE**

WHEREAS, Section 9, "Visual Impact Regulations" as contained in the Ouray County Land Use Code ("Code") was originally adopted in 1986; and

WHEREAS, on February 16, 1993, the Ouray County Planning Commission, at the direction of the Board of County Commissioners of Ouray County ("Board") initiated a review of issues related to interpretation of certain provisions of Section 9, a process that culminated in significant changes being adopted to Section 9 in 1997, including the addition of the point system and expansion of the effect of visual impact requirements; and

WHEREAS, during the last ten years, revisions to Section 9 have been requested by Ouray County citizens, four current and prior Ouray County Planners/Administrators and the Ouray County Building inspector; and

WHEREAS, amendments or changes to Section 9 have been on the Board's list of Code changes since at least 2007 (see Resolution No. 2007-041); and

WHEREAS, on October 6, 2009 the Board of County Commissioners of Ouray County, Colorado ("Board") began a process to review the provisions of Section 9, "Visual Impact Regulations," of the Ouray County Land Use Code ("Code"); and

WHEREAS, the Board has held at least thirty-six properly noticed public work sessions and meetings since October 6, 2009 to discuss possible changes to Section 9, including two field trips, a meeting with representatives of the local design/construction community and a meeting with representatives of the local real estate community, concluding with a final "wrap-up" session on September 21, 2010; and

WHEREAS, the work sessions and meetings have been well attended by members of the public as well as members of the Ouray County Planning Commission and the Board has encouraged comments and suggestions regarding the current Section 9 and necessary changes or modifications to Section 9; and

WHEREAS, as a result of almost a year of meetings to discuss amendments or modifications to the Visual Impact Regulations and the concomitant "pro and con" public input regarding possible amendments or modifications, the Board has reached consensus on certain topics and portions of the Visual Impact Regulations that the Board believes should be further vetted by the Ouray County Planning Commission and such consensus topics or items for further deliberation are detailed on the attached Exhibit "A"; and

WHEREAS, the Board is also submitting to the Planning Commission for its review and recommendations the current Section 9 of the Code as well as draft language for possible modifications to Section 9 ("Section 9 Draft") and the Board requests that the Planning Commission review the same and deliberate on the topics and items described on the attached Exhibit "A" and prepare a report and recommendation to the Board; and

WHEREAS, the Board understands that there may be issues associated with the provisions of Section 9 that the Planning Commission may not reach consensus on; therefore, it is incumbent upon the Planning Commission to point out the pros and cons of such issues to the Board or make a recommendation for the Board's consideration; and

WHEREAS, C.R.S. § 30-28-116, entitled "Regulations may be amended" provides that: "...the board of county commissioners may amend the number, shape, boundaries, or area of any district, or any

regulation of or within such district, or any other provisions of the zoning resolution. Any such amendment shall not be made or become effective unless the same has been proposed by or is first submitted for the approval, disapproval or suggestions of the county planning commission.”; and

WHEREAS, the Board requests that the Planning Commission complete its work and advise the Board of its recommendations relative to possible amendments or modifications to Section 9 as expeditiously as feasible and that the Planning Commission advise the Board of its proposed recommendations or progress on amendments or modifications to Section 9 on or before July 1, 2011;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, AS FOLLOWS:

1. That the Planning Commission review Section 9 of the Code, including the current Section 9, the Section 9 Draft dated May 18, 2010 and the items as set forth on the attached Exhibit “A” at such meetings as the Planning Commission deems appropriate and that the Planning Commission advise the Board of its progress on or before July 1, 2011.

APPROVED AND ADOPTED THIS 1st DAY OF November, 2010.

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO



Lynn M. Padgett, Chair



K. Keith Meinert, Vice Chair



Michelle Nauer, Clerk and Recorder
By: Linda Munson-Haley, Deputy Clerk of the Board



Heidi M. Albritton, Commissioner Member

EXHIBIT "A"

1. Expansion to additional roads within Ouray County.

Possible criteria to review in order to determine whether expansion of the Visual Impact regulations to other visual impact corridors is appropriate/necessary:

- a. Amount of private land and potential for future development.
- b. Direct access routes to public lands.
- c. Economic benefits; important for recreational tourism and regional/local economy.
- d. Visually significant areas – classic Ouray County vistas including agricultural vistas essential to Ouray County's character.

2. Point system.

The point system as a whole should be analyzed to determine if it achieves the overall goal of "blending".

Is there a way to make blending less subjective and quantifiable, allowing flexibility and predictability, without the point system?

Is there a way to simplify screening and/or make more optional?

Planning Commission should review the recommendations from the "ad hoc" committee of builders and contractors regarding possible modifications to the point system as well as the presentation from the Building Official regarding utilization of the point system.

3. Setback from roads.

Might there be instances in which exemptions from the mandatory setback would be beneficial and less intrusive?

4. Skyline breakage.

Favor the current policy of allowing "peek-a-boo" skyline breakage rather than an absolute prohibition. The words and the visual in Section 9.3 C need to be modified to be clear on the extent of a "peek-a-boo" breakage allowed.

Should skyline breakage apply only to ridgelines, escarpment or benches? Definitions of ridgeline and escarpment must be examined and a new definition for "bench" added.

5. Setback from a ridgeline or escarpment.

Fifty-foot setback appears to be working for visual impact purposes.

Building Official recommendation of seventy-five feet setback to address issues of wildfire mitigation.

6. Submittal requirements.

Currently Section 9 does not have a specific set of submittal requirements or a process for review and approval of applications. Including an itemization of submittal requirements and review and approval of applications in Section 9 should be considered such as that included in the Section 9 Draft.

7. Appeal process.

Currently the appeal process on visual impact regulations is contained in Section 19 of the Code. The appeal provisions set out in Section 19 are vague and unclear and a review of such provisions should be considered such as that included in the Section 9 Draft.

8. Structures v. buildings.

A review of how the current Code applies to structures v. buildings should be considered including possible separate standards, submittal requirements and slightly altered process for structures v. buildings as well as alternative energy components.

9. Historically accurate buildings.

An enabling mechanism to allow historically accurate buildings, compatible with a surrounding neighborhood or area, should be considered.

10. Definitions.

In addition to the definitions for ridgeline, escarpment and bench, all definitions included in the current Section 9 and the Section 9 Draft should be reviewed and considered.

11. Remodels, additions and reconstruction.

Consideration should be given to how or if the visual impact regulations should apply to remodels, additions or repairs/reconstruction after significant damage. Reference should also be made to language contained in Section 4 of the Code regarding non-conforming structures and how such language should coordinate with Section 9.

12. Companion Guide to Visual Impact Regulations.

Consider and provide input and recommendations regarding the scope of the applicability of a "Companion Guide to Visual Impact Regulations".