

**RESOLUTION  
OF  
THE BOARD OF COUNTY COMMISSIONERS  
Ouray County, Colorado**

**RE: Directing the Planning Commission to Consider Revisions to Section 9 of the Ouray County Land Use Code**

**WHEREAS**, the Board of County Commissioners by Resolution No. 2010-045 referred Sections 9 of the Ouray County Land Use Code ("Section 9") to the Planning Commission for consideration of revisions; and

**WHEREAS**, after a lengthy process that spanned several years, the Planning Commission provided recommendations for revisions to Section 9 to the Board of County Commissioners, which the Board of County Commissioners carefully considered, and after several sessions of public hearings, including public comments and written testimony, in 2013, voted to not adopt the Planning Commission proposed draft and directed Land Use Staff to draft recommended language for Section 9, based on the comments received through the public process, and discussions of the Board of County Commissioners; and

**WHEREAS**, the Staff Draft of Section 9 has been presented to the Board of County Commissioners in multiple work sessions, with revisions made incorporating concerns and comments of the public attending the work sessions, as well as comments and concerns articulated by each of the Commissioners; and

**WHEREAS**, the Board of County Commissioners now desires to have the Planning Commission review this draft and provide their recommendation as to its adoption; and

**WHEREAS**, given the extensive consideration of the broad implications of the visual impact regulations contained in Section 9 over a period of several years by the Planning Commission, the Board of County Commissioners, and members of the public, the Board of County Commissioners believes it to be important to conclude the discussion and revision of Section 9 and allow its implementation;

**NOW, THEREFORE, Be It Resolved** by the Board of County Commissioners of Ouray County, Colorado, that the Planning Commission, with the assistance of County staff, is requested to review and provide recommendations on the proposed draft of Section 9 of the Land Use Code, Visual Impacts, attached to this Resolution as Exhibit A, as follows:

1. Planning Commission is asked to review the draft of Section 9 and provide its recommendation of either approval or disapproval not later than November 1, 2014.
2. Minor revisions to the draft language may be suggested, but Planning Commission is asked to provide substantive concerns and suggestions in its recommendation and report, including any conceptual changes or inclusions of additional substantive provisions.
3. Planning Commission is also requested to provide recommendation as to inclusion, or not, of the roads listed in Exhibit B within the application of Section 9, and to prioritize any roads recommended for inclusion.

APPROVED AND ADOPTED THIS 7 DAY OF OCTOBER, 2014.

Voting for: Commissioners ~~Padgett~~, Fedel, and Batchelder  
Voting against:

BOARD OF COUNTY COMMISSIONERS  
OF OURAY COUNTY, COLORADO

Attest:



*[Signature]*  
Michelle Nauer, Clerk and Recorder  
By: Hannah Hollenbeck, Deputy Clerk of the Board

*-ABSENT-*

\_\_\_\_\_  
Lynn M. Padgett, Chair

*[Signature]*  
\_\_\_\_\_  
F. Mike Fedel, Vice-Chair

*[Signature]*  
\_\_\_\_\_  
Don Batchelder, Commissioner

Section 9

**VISUAL IMPACT REGULATIONS**

**9.1 PURPOSE**

In order to preserve the scenic beauty, rural setting, character, and the dominating influence of the natural environment of Ouray County, there is hereby established a Visual Impact Regulation. Visual impact regulations have been part of the Ouray County Land Use Code since March of 1986. Various revisions to this section were adopted in 1993 and 1998. The intent of this regulation is to minimize the visual impact of both individual structures, and structures as a whole, so that development blends with the natural surroundings and does not compete with the existing physical environment for the viewer's attention, thereby preserving the unique physical environment, scenic values, irreplaceable views, quality of life and property values that have traditionally characterized and defined Ouray County, and are a foundation of our economy.

**9.2 APPLICABILITY**

A. This Section, as revised, applies to all construction that requires a building permit issued after the [date of adoption] and is located within the *view corridor(s)* of U.S. Highway 550, Colorado Highway 62, that portion of County Road 1 lying between County Road 24 and the south intersection of County Road 1A and County Road 1, and County Roads 5, 7, 8, 10, 24 and 24A. Structures built prior to the adoption of these revisions are not affected by these revisions unless a new building permit is required, in which case the provisions of Subsection B below will apply.

B. Structures built prior to (DATE OF ADOPTION) may be rebuilt, remodeled, repaired, or enlarged and receive a building permit for those purposes providing there is no increase to an existing non-conformity. Building permits issued for new detached residential or accessory structures shall require full compliance with this Section.

C. No provision of this Section shall prohibit any property owner from clearing vegetation to reduce or slow the spread of wildfire (ie. *create defensible zone*), however, creation of defensible space should not be done to evade the requirements of this Section. Creation of defensible space should not include removal of newly planted vegetation that was added for screening purposes.

**9.3 EXEMPTIONS**

A. The requirements of this section are not applicable to structures, and those portions of structures, that are clearly demonstrated to be invisible from any viewing window.

B. The requirements of this Section are not applicable to structures designed and used primarily for mining or farming and ranching purposes, including typical accessory structures. Applicants for building permits for such structures are encouraged to include blending, screening and designs in keeping with the intent of this Section.

C. The requirements of this Section are not applicable to communication towers or wind generating towers.

## Exhibit A

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D. The requirements of this Section are not applicable to fences that do not require a building permit.

E. The requirements of this Section are not applicable to the Colona Zone, as defined by the document dated January 1986 and recorded in the Ouray County Clerk and Recorders Office as Reception No. 138553 or any future amendment or modification by the County of this zoning district.

### 9.4 **ENFORCEMENT**

A. Compliance with this Section will be determined by the Land Use Staff prior to the issuance of a building permit, and compliance with Section 9 shall be included in construction inspections. All requirements shall be met prior to the issuance of a final certificate of occupancy/completion. Appeals from any determination of the Land Use Staff or the Building Inspector may be taken pursuant to Section \_\_\_\_\_.

B. A landowner may not alter an approved structure in a manner that would cause the structure to become non-compliant with any visual impact criteria. Landowners must maintain any new/additional screening features in a manner consistent with continued compliance with the point system, including watering and care of any *newly planted vegetative screening*.

### 9.5 **CRITERIA AND STANDARDS**

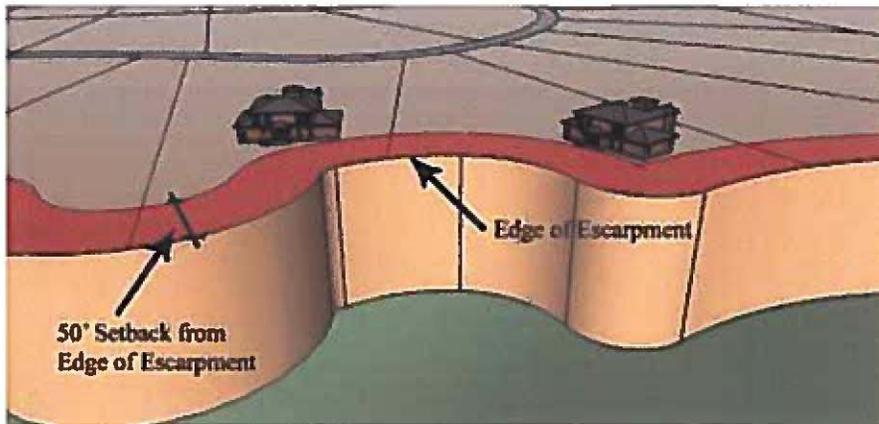
#### A. **Setbacks:**

1) All new structures requiring a building permit and within a view corridor must be set back at least one hundred (100) feet from the centerline of all roads listed in 9.2A.

2) The 100-foot setback requirement in Section 9.5A(i) does not apply to subdivisions approved or recorded prior to the enactment of Section 9, of the Ouray County Land Use Code, March 1986.

3) In addition to any requirements imposed by this Section, all structures requiring a building permit and falling within a viewing corridor and located along a ridge line or edge of escarpment shall be set back a minimum of fifty (50) feet from the ridge line or edge of the escarpment. (See Illustration A below).

Illustration A



B. **Point System:** All structures visible and within 1.5 miles of the centerline of the roads or highways listed under Section 9.2A shall be subject to the following point system, which shall be calculated as follows: Determine rating from each of the five (5) categories listed in the table below. Add points for all categories. Structures must amass a minimum of one-hundred (100) points in order to pass.

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C. If the subject lot lies within, and will be visible from, multiple viewing corridors, Staff shall establish a *primary corridor* by identifying the road where the structure will be visible for the greatest distance. Points will be then be assigned from the primary corridor only.

**Visual Impact Point System Table**

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VISIBILITY (Percentage of the viewing window where the structure is visible from the <i>primary corridor</i> .)	POINTS
80 to 99% visible	10
60 to 79% visible	15
40 to 59% visible	20
20 to 39% visible	25
10 to 19% visible	30
01 to 09% visible	35

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<p><b>DISTANCE TO DESIGNATED ROAD</b> (Distance from the center line of the <i>primary corridor</i>.)</p> <p>000 to 199 feet 200 to 399 feet 400 to 599 feet 600 feet to ¼ mile ¼ to ½ mile ½ mile to 1 mile 1 mile to 1.5 miles</p>	<p><b>POINTS</b></p> <p>0 10 30 50 60 65 70</p>
<p><b>BLENDING</b> (Assessed from the <i>primary corridor</i>. See Section 9.8B for definitions.)</p> <p>No blending Minimal blending Moderate blending Exceptional blending</p>	<p><b>POINTS</b></p> <p>0 10 60 80</p>
<p><b>EXISTING PUD/CONFORMING LOT</b></p> <p>Yes/Confirmed</p>	<p><b>POINTS</b></p> <p>10</p>
<p><b>SCREENING</b> (Includes natural and additional screening placed by homeowner and as measured from the <i>primary corridor</i>.)</p> <p>01 - 25% 25 - 50% 50 - 75% 75 - 99 %</p>	<p><b>POINTS</b></p> <p>5 10 40 80</p>

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**D. Skyline Break:** No structure shall break the skyline as seen from any viewing point within any viewing window as established and described by Section 9.8 except the following;

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(1) Where there is a gap in the existing skyline, a maximum length of ten (10) feet of the roof and walls of the structure may be visible as measured along the skyline, but shall not exceed the height of a horizontal line extended from the high point of the lower side. (see Illustration B below)

(2) Where the roofline is not horizontal to the viewing window, an additional maximum length of twenty (20) feet of the roof and walls of the structure may be visible as measured along the skyline. This additional twenty (20) feet must not be connected to the first ten (10) feet and shall not exceed the height of a line extended from the high point of the lower side to the high point of the high side (see Illustration B below).

(3) Additionally, the skyline restrictions stated above do not apply provided that: (a) the proposed site is not on a ridge line or edge of escarpment; and (b) the maximum distance in the viewing window where the *skyline break* is visible is not more the 500 feet along the view corridor; and (c) the portion of the proposed structure which breaks the skyline does not exceed fifteen (15) percent of the unscreened silhouette. (See Illustration C below.)

Illustration B:

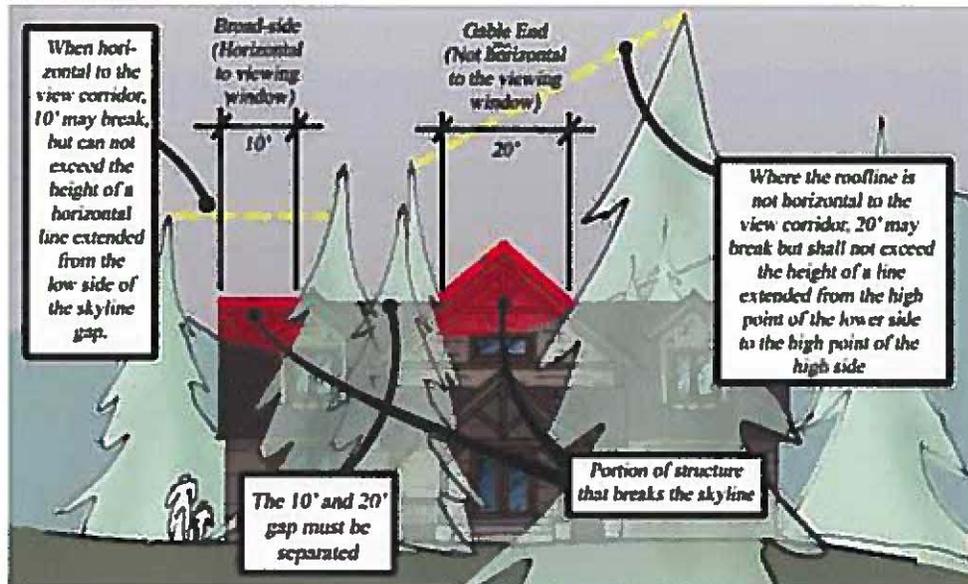
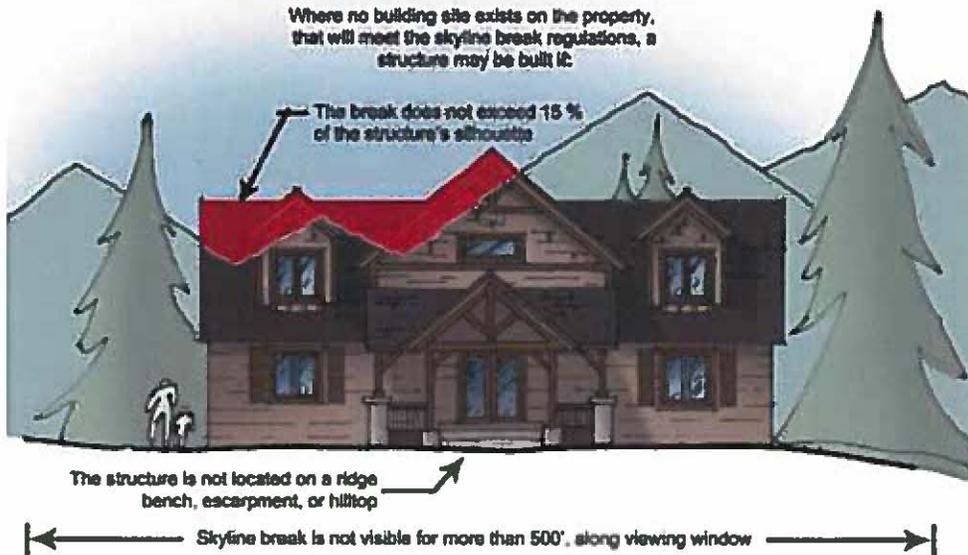


Illustration C

## Exhibit A

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- E. **Reflective Materials:** All roofing, siding and windows shall be constructed of materials that are not highly reflective. Highly reflective materials that are prohibited include, but are not limited to: stainless steel, polished metal, bright metal, galvanized metal, and glass coated with reflective material.

### 9.6 PROCESS FOR REVIEW

#### A. Structures Requiring a Building Permit

- (1) Upon receipt of a completed application for a building permit, the County Land Use Staff shall review the project and determine whether it meets the requirements of this Section 9. If the County Land Use Staff finds the project to be in compliance, the County Land Use Staff may issue a building permit for the project. If the County Land Use Staff determines that the project does not comply, the County Land Use Staff, in writing, shall so notify the applicant and indicate areas of noncompliance.
- (2) An applicant may appeal the decision of the County Land Use Staff to the Board of Adjustment in accordance with Section 19.7 and 19.8 of the Ouray County Land Use Code.

#### B. All Other Structures (PUDs, Special Use Permits )

- (1) All other proposed structures located within 1.5 miles of the centerline of the roads listed in Section 9.2 shall be reviewed for visual impact compliance during the normal development review process as outlined in Section 5, Section 6, and Section 23 of this Code.

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- (2) A visual impact plan shall be provided by the Applicant, including the following information, in order to determine visual impact compliance requirements:
  - a. P.U.D. Sketch Plan
  - b. Preliminary written analysis of the visual impact of the development and how the proposal complies with the visual impact criteria and measures taken to reduce or eliminate the visual impact of the proposed development.
  - c. A map illustrating required information including, but not limited to: existing vegetation, vegetation to be removed, potential viewing windows based upon proposed building areas, roads and lots.
  - d. Photos of the site conditions showing the property from the county or state roads listed in Section 9.2A.

### **C. P.U.D. Preliminary Development Plan and Special Use Permit**

- (1) Final written analysis of any potential visual impact of the development and how the proposal complies with the visual impact criteria, and measures taken to reduce or eliminate any possible visual impact of the proposed development.
- (2) Final map illustrating the requirements of the sketch plan and including, but not limited to: topography, building envelopes, building cuts and fills and road cuts and fills.
- (3) Photographs of the site from key viewpoints.
- (4) Topographic sections.

### **D. Outside Professional Assistance**

The Planning Commission may, with prior approval of the Board of County Commissioners, seek qualified outside professional assistance during its PUD review process. If the applicant has not provided professional assistance, the cost of such assistance shall be considered part of the County's expenses incurred in reviewing the development proposal and, as such, shall be chargeable to the developer.

If the applicant has provided professional assistance and the County is seeking professional assistance to review the applicant's proposal, the County shall bear all expenses incurred.

## **9.7 APPEAL PROCESS AND VARIANCE CRITERIA**

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See Sections 19.7 and 19.8 of the Land Use Code

### 9.8 DEFINITIONS

#### A. BLEND OR BLENDING

Blending may be accomplished by insuring that all exterior materials, finishes, and colors for structures integrate with, and do not stand in stark contrast to, the surrounding natural environment. Blending shall include the use of non-reflective building materials and low luster earth tone colors. Contrasting or complementary colors in building trim are not precluded, provided these colors do not dominate the structure. Blending should achieve low visual contrast to the surrounding natural landscape or vegetation as viewed from a designated corridor. Screening, size, shape, color, hue saturation, texture, tone and shade or light reflection should all be components of blending.

##### POINT SYSTEM REFERENCE:

##### Minimal Blending:

Structure design, site placement, and exterior materials present minimal integration with the surrounding natural environment. Some exterior materials may present noticeable reflectivity from certain points within the viewing window. Structure presents moderate visual contrast to the surrounding natural landscape.

##### Moderate Blending:

Structure design, site placement, and exterior materials present a moderate to high level of integration with the surrounding natural environment. Exterior materials may present minimal reflectivity from any point within the viewing window. Structure presents only a minor visual contrast to the surrounding natural landscape.

##### Exceptional Blending:

Structure design, site placement, and exterior materials present a high degree of consistent integration with the surrounding natural environment. Exterior materials present no noticeable reflectivity from any point within the viewing window. Structure presents no stark contrast to the surrounding natural landscape.

#### B. EARTH TONE

A color scheme that draws from a color palette of browns, tans, grays, greens, oranges, whites, blues and some reds. The colors in an earth tone scheme are muted and flat in an emulation of the natural colors found in dirt, moss, trees, and rocks. Many earth tones originate from clay pigments, such as umber, ochre, and sienna. Examples of earth tone colors can be seen in the *Munsell Soil Color Book*, a copy of which is maintained in the Land Use Office for reference.

#### C. EDGE OF ESCARPMENT

The upper line of intersection whereby a cliff or steep slope (fifty (50) percent or greater) separates two comparatively level or gently sloping surfaces.

#### D. ESCARPMENT

## Exhibit A

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A long steep slope (fifty (50) percent or greater) or cliff at the edge of a plateau that separates two relatively level areas of differing elevations.

### E. REFLECTIVE (REFLECTION)

Object or surface capable of physically reflecting (ie. *bouncing back*) light.

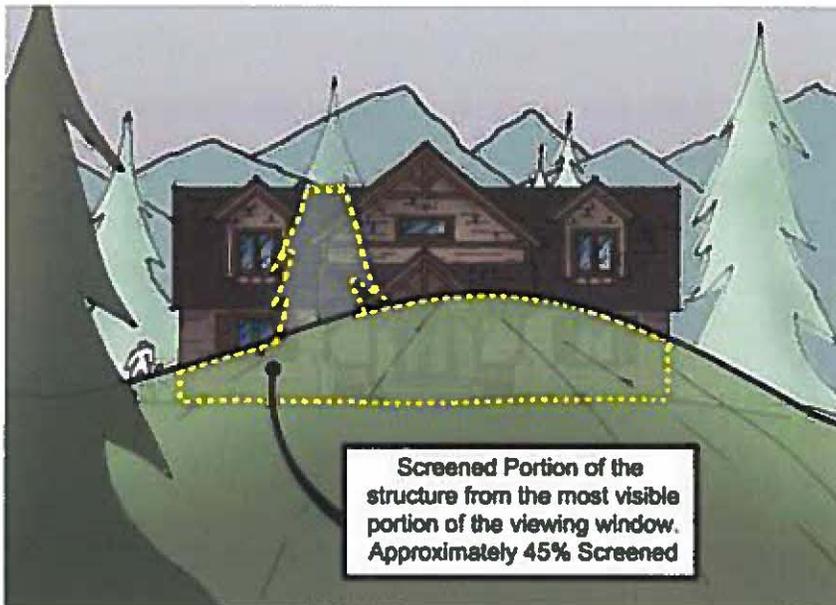
### F. RIDGE LINE

A geological feature consisting of a chain of mountains or hills that form a distinct and continuous elevated crest for some distance.

### G. SCREENING

Flora, topographical features, material elements (berms, etc...) which exist naturally, or are added to the lot, that hides any portion of the structure from the observers' perspective when viewed from the view corridor. *Screening* is reviewed and assessed by Staff from the point along the nearest view corridor where the structure is most visible. (see illustration D)

#### Illustration D



### H. SILHOUETTE

An outline that appears to be dark against a lighter background.

### I. SKYLINE

The line where the sky seems to meet either earth or vegetation.

## Exhibit A

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### J. STRUCTURE

See definition in Section 22 of the Land Use Code. In addition, structures, which may require review under this Section 9, include but are not limited to gates, freestanding walls, retaining walls, and fences over 6' in height.

### K. VIEW CORRIDOR

An area within 1.5 miles of the centerline of the highways or roads listed in Section 9.2A as measured on a two-dimensional map.

### L. VIEWING WINDOW

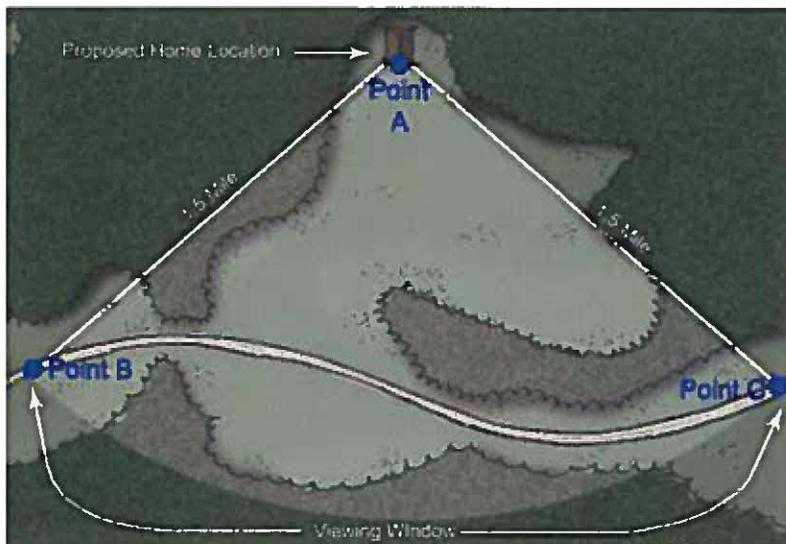
The length of road over which visibility, screening, and skyline breakage shall be evaluated. Viewing window is defined as follows:

- (1) Determine the nearest point of the structure to any point along the centerline of the highway or roads listed in Section 9.2. That point of the structure becomes Point A. (See Illustration E)
- (2) From Point A, strike an arc with a radius of 1.5 miles until it crosses the centerline of any of the highways or roads listed in Section 9.2. That point of intersection becomes Point B.
- (3) Continue the arc above, until it again crosses the centerline of the highway or road. That point of intersection becomes Point C.
- (4) The viewing window is that portion of the road or highway between Point B and Point C that lies within 1.5 miles of the structure.
- (5) Multiple viewing windows shall be established if the centerline of more than one of the above highways or roads listed in Section 9.2 is within 1.5 miles of the nearest point of a structure.

### Illustration E

Exhibit A

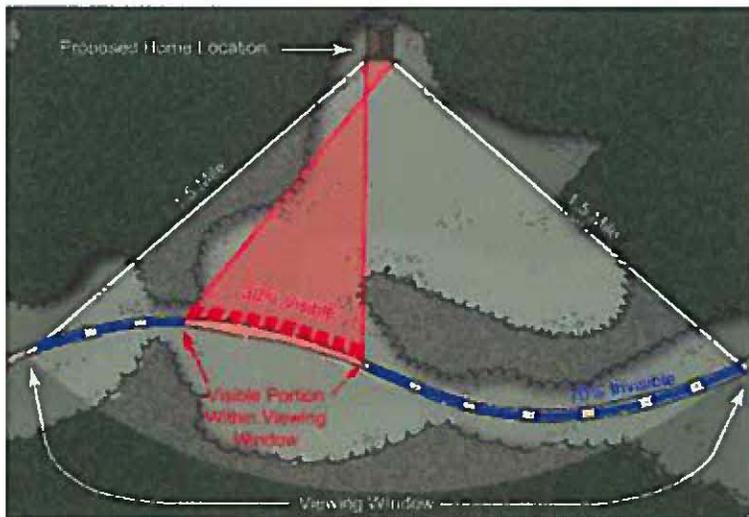
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M. VISIBILITY

Distance along the viewing window that any portion of the structure is visible. (See Illustration F.)

Illustration F



N. VISUAL IMPACT

## Exhibit A

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Development (ie. *structures*) that does not blend with its natural surroundings, dominates the landscape, or competes with the existing physical environment for the viewer's attention.

### O. VISUAL IMPACT PLAN

A map or maps and supporting documentation detailing the visual impact mitigation measures being taken (if required) to assure compliance with Section 9 of the Ouray County Land Use Code.

P

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#### 9.10 APPLICATION SUBMITTAL REQUIREMENTS

Any application for a building permit subject to the requirements in Section 9 shall include the following submittal requirements:

- Scaled site plan showing all proposed structures, property lines, setbacks of structures from property lines, adjacent roads.
- Elevation drawings of all proposed structures
- Color samples for all proposed structures
- Material samples for roofing and siding

Applicants *may* have to submit one or more of the following materials:

- Site Photos
- 3-D visual analysis of all proposed structures (produced by a licensed architect)
- The erection of *story poles* may also be required to determine building height, potential skyline breaks, and overall visibility of the proposed structure. Story poles are placed to represent roof peaks, with flags tied every 5-feet along the horizontal line. (Any flags attached to trees must be removed once building permit is approved.)

#### 9.11 BEST MANAGEMENT PRACTICES

In support of the spirit and intent of these regulations, Developers and builders are encouraged to use *Best Management Practices*, such as:

- A. Re-vegetation/reforestation of all cuts and fills on public roads, private roads, and driveways, utilizing materials native to the undisturbed area or otherwise made to achieve harmony with the adjacent natural landscape.
- B. Position structures on site to reduce visual impact by use of the natural landscape, terrain, and vegetation on the site.
- C. Fences should be designed and constructed in keeping with the rural and Western character of the County, as well as with consideration for the needs of wildlife, per the Colorado Division of Parks and Wildlife publication - *Fencing with Wildlife in Mind*, available on their web site, or at the Land Use Office.

#### 9.12 OTHER APPLICABLE CODE SECTIONS

In addition to requirements listed this Section, all other applicable Sections shall be enforced, including, but not necessarily limited to:

Exhibit A

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- A. Section 2 – Zoning Districts
- B. Section 24 – Wildfire Mitigation
- C. Section 27 – Outdoor Lighting Regulations