

Draft Section 9

(3/21/2013 Final PC Draft)

(Amendments made during Public Hearing shown in **RED**.)

VISUAL IMPACT REGULATION

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. The intent of this regulation is to minimize the visual impact of both individual structures and development 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 and scenic values that have traditionally characterized and defined Ouray County and are one of the foundations of our economy.

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9.2 COMPLIANCE

A. All exteriors of newly constructed structures, as well as, all the exteriors of remodeled portions of existing structures, all of the exteriors of additions added to existing structures, and all of the exteriors of reconstructions shall blend, see Section 9.7C for the definition of blending.

B. All building permits for new structures, as well as, all exteriors on new structures, remodels, additions, and reconstructions; all new public roads, private roads, driveway cuts, and driveway fills; shall meet the requirements of this Section 9 except the following:

(1) Maintenance and/or repairs on existing structures, public and private roads, driveway cuts, and driveway fills.

(2) Accessory structures, private roads, and or driveways used exclusively for agricultural or mining purposes, and not located on any escarpment or ridgeline.

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(3) Structures, driveways, or roads that can be clearly demonstrated not to be visible from the highways and roads listed in Section 9.3A.

(4) Fences which are 75% or more transparent, all fences that are 4 feet high or less, and traditional aspen zig-zag fences.

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(5) Remodels, additions, or reconstructions to an existing structure, that breaks the skyline and that is not on a bench, ridge, escarpment, or hilltop, shall not be required to comply with the skyline breakage requirements of Section 9.3D; provided that (1) the square footage of the existing structure shall not be expanded or enlarged by more than twenty (20) percent, and (2) the roof height of the expanded or enlarged structure shall be less than or equal to the roof height of the existing structure, and (3) this exception has not been previously applied to the existing structure being remodeled, added on to, or reconstructed.

(6) Remodels, additions, or reconstructions to an existing structure, that violates the

set back from the centerline of a road or roads included in Section 9.3A and that is not on a bench, ridge, escarpment, or hilltop, shall not be required to comply with the set back requirements of Section 9.3A, provided that (1) the degree of nonconformity of the existing structure shall not be expanded or enlarged by more than twenty (20) percent, and (2) shall be no closer to the center line of a road or roads included in Section 9.3A than the existing structure.

(7) Structures, driveways, roads, or lots which are shown on the Plat of the Colona Zone Boundary dated January 1986 and recorded in the Ouray County Clerk's Office on March 4, 1986 as Reception No. 138553.

(8) The one hundred (100) foot setback requirement in Section 9.3A does not apply to subdivisions approved prior to enactment of this revision of Section 9 of the Ouray County Land Use Code.

C. Existing structures, public roads, private roads, and driveways cuts and fills shall be allowed to remain in their present state subject to the provisions of Section 4 of this Code.

D. A visual impact mitigation plan and commitments to ensure the plan's completion shall be required when a building permit application for a structure does not meet the requirements of this section. Such a plan and commitments must be approved by the County prior to issuance of required permits, including but not limited to building, access, driveway, road construction, PUD, and special use permits.

E. Historically accurate new structures may be exempt from exterior color requirements if:

(1) The new structure is consistent in architectural design (including size and building mass), style, and color to existing structures built prior to 1920 and located within one mile of the proposed structure, e.g. mining structures in the alpine zone and agricultural structures in ranching/farming areas.

(2) Data verifying historical accuracy shall be provided by the applicant. The County shall make the determination as to whether a structure is historically accurate.

(3) All other regulations and requirements of Section 9 shall be enforced.

9.3 CRITERIA AND STANDARDS

The objective for structures to be constructed within the view corridors is to blend with and retain the existing character of the natural landscape. The level of change to the landscape should be very low. Development may be seen but should not dominate the view of the casual observer.

A. All proposed structures shall be at least one hundred (100) feet from the centerline 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, County Roads 5, 5A, 7, 8, 8A/B/D/G/H/I/K/L, 9, 9A/X/Y/Z, 10, 10A, 12, 12A, 14, 14A/B, 16, 17, 18, 20A/B/C/D/E/W, 23, 24, 24A/C/D, 26, 26A/B/C/D/E, 31, 31A, 361 and 906A/B unless siting the structure at less than 100 feet from the centerline reduces visual impacts. (See exceptions 9.2B (7) and (8))

B. All structures visible at or within 1.5 miles, as measured on a two dimensional map, from the centerline of the roads or highways listed under Section 9.3A (as represented by the Ouray County Visual Impact Corridor Map) shall be subject to the impact and mitigation criteria contained in Section 9.3C. The maximum number of points allowed per structure shall be six (6).

C. Impact and Mitigation Criteria:

<p>IMPACT CRITERIA</p> <p>Points for the following criteria are to be added together:</p>	
<p>1. Size of structure (see Section 9.3 I for what is included and excluded for the size)</p>	<p>One-tenth (0.1) point for every 100 square feet. Excludes non-visible basements.</p>
<p>2. Height of structure (see Section 9.3C (1))</p>	<p>Three-tenths (0.3)point for every foot of the weighted average height of the structure visible from the view window(s).</p>
<p>MITIGATION CRITERIA</p> <p>Points for the following criteria are to be subtracted from the impact criteria points:</p>	
<p>1. Natural screening as measured over the viewing window(s)(see Section 9.7N for a description of natural screening)</p>	<p>8 pts. for greater than or equal to 75% screening 6 pts. for 50% to less than 75% screening 4 pts. for 25% to less than 50% screening 2 pts. for 10% to less than 25% screening 0 pts. for less than 10% screening</p>
<p>2. Distance of structure from a designated road (see Section 9.3A)</p>	<p><u>One-point for every quarter mile (0.25 miles) plus 1 point for every 200-feet with a point awarded at 200-feet and a maximum of 3 points at 600 feet. Maximum available points are 9.</u></p>

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3. The proposed structure is located within an existing subdivision, PUD, or on a conforming parcel.	1 point
4. Apparent building mass as measured from the point(s) in the viewing window(s) where the structure is most visible (see Section 9.3C (2) for how points are assigned and Section 9.7R for definition and illustration of viewing window).	0 to 3 points (In one-half (0.5) point increments) (See Section C (2) for explanation.)
5. Additional screening as measured from the point(s) in the viewing window(s) where the structure is most visible (see Section 9.3C(3) for how points are assigned and Section 9.7R for definition and illustration of viewing window).	0 to 2 points(In one-half (0.5) point increments) If the lot has 10% or less natural screening as measured from the point or points in the viewing window(s) where the structure is most visible then up to 2 additional points may be assigned in one-half (0.5) point increments.

(1) Building height impact points shall be calculated using a weighted average height. (See Section 9.7U)

(2) Apparent building mass mitigation points shall be assigned based on the following: one-half (.5) point for each apparent building mass element used [individually or in combination](#), and which mitigates the mass and scale of the visible portion of the structure by shading or shadowing at least ten (10) percent of the structure's silhouette as measured from the point(s) in the viewing window(s) where the structure is most visible (see Section 9.7A and R).

(3) Additional screening mitigation points shall be assigned based on the following: one-half (.5) point for each element of additional screening used and which mitigates the mass and scale of the visible portion of the structure by shading or shadowing more than ten (10) percent of the structure's silhouette as measured from the point(s) in the viewing window(s) where the structure is most visible (see Section 9.7M and R).

D. No structure shall break the skyline as seen from any viewing point within any viewing window as established by Section 9.7R of this Code except the following;

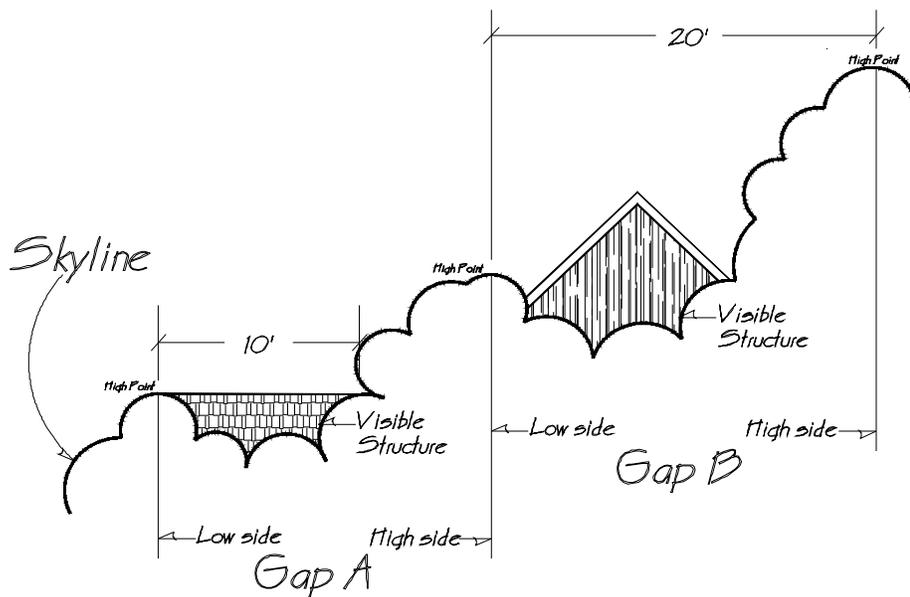
(1) Where there is a gap in the existing skyline no greater than ten (10) feet wide, a maximum length of ten (10) feet of the roof and walls of the structure may be visible as measured along the skyline, but shall not exceed

the height of a horizontal line extended from the high point of the lower side (see Illustration A, Gap A 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 A, Gap B below).

(3) Where no building site exists that meets the skyline breakage requirements as described above the skyline may be broken provided: (a) the proposed site is not on a bench, ridge, escarpment, or hilltop; (b) the maximum distance in the viewing window that the breakage is visible is not more than 500 feet; and (c) the portion of the proposed structure which breaks the skyline does not exceed fifteen (15) percent of the unscreened silhouette.

Illustration A:

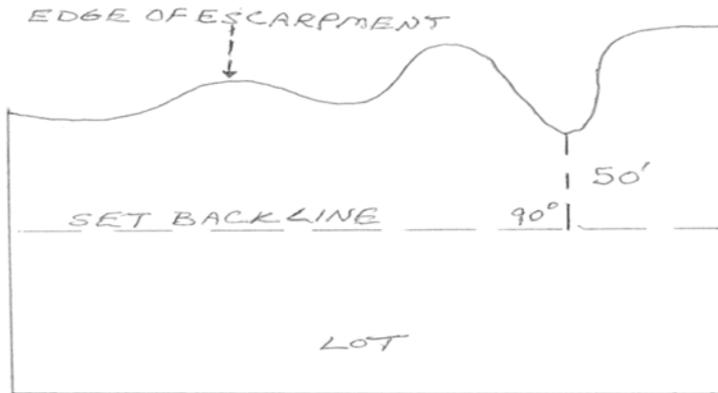


E. In addition to any requirements imposed by this Section, all structures falling within a viewing window and located along a ridge line or escarpment shall be set back a minimum of fifty (50) feet from the ridge line or edge of the escarpment as measured from a point marking the closest (i.e. deepest) edge of the ridge line of the

escarpment within one-hundred (100) feet of the structure, (See Illustration B below).

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Illustration B



F. All public roads, private roads, and driveway cuts and fills shall be revegetated and/or reforested utilizing materials native to the undisturbed area or otherwise made to achieve harmony with the adjacent natural landscape.

G. All development is required to comply with the provisions of Section 27 of this Code, "Outdoor Lighting Regulations".

H. To the extent that it is practical structures shall be positioned on site to mitigate visual impact by use of the natural character of the surrounding landscape and terrain.

I. For floor levels that are partially below grade, the floor area used to calculate visual impact points shall be a percentage of the total area of that level to be determined by dividing the square footage of the exposed exterior wall area of that level visible in any viewing window by the total square footage of the exterior wall area of that level.

Example: 1,200 square feet of exposed and visible wall area divided by 2,400 square feet of total wall area equals point five zero (0.50) or fifty (50) percent.

J. Only the portions of a structure that are visible from the viewing window(s) require visual impact mitigation (see mitigation criteria in 9.3C).

K. Blending and screening shall be evaluated under summer vegetative conditions.

L. All roofing, siding and windows used shall not be constructed of highly reflective materials. These materials shall include, but not be limited to: stainless steel, polished metal, bright metal, galvanized metal and glass coated with reflective material.

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9.4 PROCESS FOR REVIEW

A. Development Requiring Only 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 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 9.6.

B. All Other Development (PUDs, Special Use Permits, and Roads)

All Other Development 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.

9.5 SUBMITTAL REQUIREMENTS

A. A visual impact plan shall be required for all Planned Unit Developments and Special Use Permit applications submitted to the County. The study, at a minimum, shall include the following information:

(1) P.U.D. Sketch Plan

(a) A preliminary written analysis of the visual impact of the development, a statement explaining how the proposal complies with the visual impact criteria, and a statement explaining measures taken to reduce or eliminate the visual impact of the proposed development.

(b) A map illustrating required information including, but not limited to: existing vegetation, vegetation to be removed, viewing areas, roads, and lots.

(2) P.U.D. Preliminary Development Plan and Special Use Permit

(a) A final written analysis of the visual impact of the development, how the proposal complies with the visual impact criteria, and measures taken to reduce or eliminate the visual impact of the proposed development.

(b) A final map illustrating the requirements of the sketch plan and including but not limited to: topography, building envelopes, building cuts, and road cuts and fills.

(c) Photographs of the site from key viewpoints.

(d) Proposed building elevations.

(e) Topographic sections.

B. 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.

C. The following shall be required for all structures:

(1) Scaled site plan showing proposed location (footprint) of all proposed construction.

(2) Elevation drawings of proposed structures with height and square footage.

(3) Color samples for roof, walls, garage doors, and trim.

9.6 APPEAL PROCESS AND VARIANCE CRITERIA

See Sections 19.7 and 19.8 of the Land Use Code

9.7 DEFINITIONS

A. APPARENT OR "PERCEIVED" BUILDING MASS

The general appearance of a structure as modified by design elements used to mitigate the mass and scale of a structure through such things as shading and shadowing. Such design elements include but are not limited to fenestration, overhangs, indentations, changes of material, changes of texture, changes of color, different roof styles (gable, hip, etc.), porches, patios, decks, stairs, columns, etc. (see Section 9.3C(2))

B. BENCH

A long and narrow strip of level or gently inclined land bounded by distinctly steeper slopes above and below it.

C. BLEND OR BLENDING

Blending may be accomplished by insuring that all exterior materials, finishes, and colors for structures integrate with the surrounding natural environment to produce a harmonious effect. 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 minimal 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 (glare) should all be components of blending.

D. BUILDING MASS

The general shape(s) of a building, attached structural components, and/or ornamental components.

E. COMMERCIAL SOLAR FARM

An energy generation facility or an area of land principally used to convert solar energy to electricity for commercial purposes.

F. EARTH TONE

A color scheme that draws from a color palette of browns, tans, greys, 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.

G. EDGE OF ESCARPMENT

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

H. ESCARPMENT

A long steep slope or cliff at the edge of a plateau that separates two relatively level areas of differing elevations.

I. GLARE

An excessively bright source of light in a person's field of view, which interferes with a person's visual perception. Glare is hereby defined as a light reflectance value (LRV) of more than forty (40) percent. LRV is the fraction of light exiting a surface compared to the amount of light falling on a surface.

J. HILL

A well-defined landform elevated above the surrounding terrain. It is often rounded and is generally somewhat lower and less steep than a mountain.

K. NEIGHBORHOOD SOLAR FARM

An energy generation facility or area of land principally used to convert solar energy to electricity for the purpose of supplying power to a neighborhood or subdivision on a lot/parcel within that subdivision or neighborhood.

L. RIDGE LINE

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

M. SCREENING – ADDITIONAL

Flora (trees, bushes, grass, etc.), terrain shape, bodies of water, elevation changes, material elements (fences, walls, berms, etc.), etc. which are added to a lot and are

designed to mitigate visual impact and to create harmony with the surrounding natural environment. Flora used in additional screening shall be adapted to the site and require little or no irrigation, such as flora used in xeriscaping. (see Section 9.3 C(3) and Mitigation Criteria, Box 5)

N. SCREENING - NATURAL

Flora, topographical features (hills, valleys etc.), terrain shape, bodies of water, elevation changes, etc., which naturally exist and hide all of a structure(s) from the viewing window(s). (See Section 9.3C, Mitigation Criteria, Box 1)

O. SILHOUETTE

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

P. SKYLINE

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

Q. 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 fences, gates, towers, freestanding walls, retaining walls, and alternative energy structures.

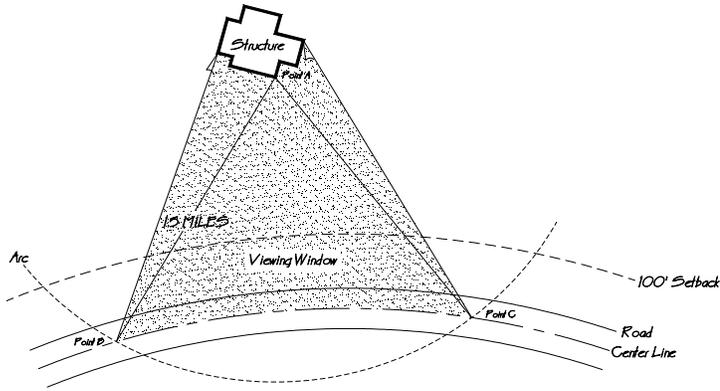
R. VIEWING WINDOW

The length of road over which natural screening, apparent building mass, additional screening, weighted average height of a structure, 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 9.3A. That point of the structure becomes Point A.
- (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 9.3A. 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.
- (5) Multiple viewing windows shall be established if the centerline of more than one of the above highways or roads listed in Section 9.3A is at or within 1.5 miles of the nearest point of any structure of a development.

See Illustration C below.

Illustration C



S. VISUAL IMPACT

Development that does not blend with its natural surroundings, dominates the landscape, or competes with the existing physical environment for the viewer’s attention.

T. VISUAL IMPACT PLAN

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

U. WEIGHTED AVERAGE HEIGHT (used solely with Section 9.3C’s impact points) (see Section 9.3C(1))

The calculation of a structure’s height, where each roof section that has a different height, is weighted by the percentage of the roof at that height. The total percentage of all roof heights together must be 100%. The weighted average is calculated as follows:

1. Length of each roof section divided by total linear feet of all roof sections = percentage of each roof section to total length of all roof sections.
2. (Height of section 1 x percentage of section 1) + (height of section 2 x percentage of section 2) + (height of section 3 x percentage of section 3) + = Weighted Average Height.

V. XERISCAPING

Landscaping or gardening in ways that reduce or eliminate the need for supplemental water from irrigation, especially in arid and semi-arid climates. It utilizes water-conserving techniques such as drought tolerant plants, mulch, and efficient irrigation.

9.8 ALTERNATE ENERGY STRUCTURES

A. All alternate energy collectors must blend unless a blending method would interfere with the operational specifications of the collectors (e.g. painting of wind turbine blades).

B. The glare effect produced by light reflecting from an alternate energy collector shall not create an unreasonably adverse impact with regard to intensity and duration. Applicants for solar arrays shall sign and record a covenant agreeing to mitigate glare found to be a nuisance occurring after installation and within a period of one year. If County Land Use Staff determines that glare creates an unreasonable off-site impact as viewed from a viewing window(s), then vegetative screening, repositioning of the collector, or other effective means of reducing glare may be required to mitigate the impact. The property owner is responsible for mitigation of glare.

C. General

Solar energy collectors must conform to the same standard as structures with regards to skyline breakage.

D. Roof Mounted Solar Energy Collectors - General

Roof mounted solar energy collectors shall not result in any structure exceeding the maximum height as defined in Section 3 Zoning Provisions/Zoning Districts.

E. Flat Roof Mounted Solar Energy Collectors

Solar energy collectors constructed on flat roofs can be raised up to six (6) feet above the height limit of the roof, measured to the top of the panel, provided the collector does not break the skyline.

F. Pitched Roof Mounted Solar Energy Collectors

Solar energy collectors mounted on pitched roofs shall not protrude above the ridge of a roof.

G. Ground Mounted Solar Energy Collectors

(1) Ground mounted solar energy collectors and other ancillary development (racking assembly, balancing system, utility boxes, etc.) shall have a "matte" finish or be made of a non-reflective material and/or color. Equipment that is painted shall be maintained.

(2) Ground mounted solar energy collectors shall be limited to twelve (12) feet in height.

(3) Ground mounted solar energy collectors shall be measured in conformance with the applicable height regulations in the Code. However, a pit may be dug for placement of a ground mounted solar energy collector so that snow does not accumulate and block solar access. In this case, the height of the final assembly shall be measured from the least restrictive grade.

(4) Ground mounted solar energy collectors shall be located within approved building envelopes and shall comply with all setback requirements.

H. Solar Farms

(1) Submittal requirements for all Solar Farms as follows:

Site plans shall include locations of all panels and accessory development such as utility trenching, access roads, service plans, and structures associated with the solar farm.

(2) Requirements for Neighborhood Solar Farm and Commercial Solar Farm as follows:

- (a) Accessory structures associated with solar farms shall be limited to 1,000 square feet in aggregate.
- (b) On site power lines associated with the solar farm shall, to the maximum extent practical, be placed underground.
- (c) Application for a commercial solar farm shall require Special Use Permits and require a professional glare study by a County specified engineer paid for by the applicant.
 - (i) If the study determines potential glare, the application must propose mitigation measures.
 - (ii) If glare cannot be mitigated, County Land Use Staff may deny the application. The applicant has the right of appeal.

I. Residential Wind Energy Collectors

- (1) Residential wind energy collectors must comply with building height restrictions.
- (2) Residential wind energy collectors shall not break ridge lines or skylines as viewed from the view corridor.
- (3) Poles must blend and be painted in a non-reflective, muted color.

9.9 COVENANTS RELATING TO VISUAL IMPACT

The covenants of any Planned Unit Development, as required by Section 6.8B(4)(i), shall contain at least the following provisions as well as any other provisions required by this Code:

- A. All development within the PUD shall comply with the visual impact criteria requirements of this Section 9.
- B. An internal mechanism (such as an architectural control committee) shall be created through which any construction must have prior approval and through which the covenants may be enforced.
- C. The visual impact provisions of the covenants may not be amended or altered without prior approval of Ouray County in accordance with Section 6.12B4 of these regulations.

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