

1 **ORDINANCE #24-410**

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3 **AN ORDINANCE AMENDING TITLE 8, THE DUCHESNE COUNTY**
4 **ZONING ORDINANCE TO CREATE AN AIRPORT OVERLAY ZONING**
5 **DISTRICT PROTECTING THE DUCHESNE MUNICIPAL AIRPORT**
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7 WHEREAS, Duchesne City owns and operates the Duchesne Municipal Airport; and,

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9 WHEREAS, to qualify for funding from the Federal Aviation Administration, Duchesne City has
10 adopted an Airport Master Plan and will adopt an Airport Overlay Zoning District to regulate
11 development in proximity of the Duchesne Municipal Airport; and,

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13 WHEREAS, the Duchesne Municipal Airport Runway Protection Zone, Inner
14 Approach/Departure Zone, Inner Turning Zone, Outer Approach/Departure Zone, Sideline Zone
15 and Traffic Pattern Zone extend outside of the corporate limits into Duchesne County
16 jurisdiction as shown on Exhibit A attached hereto and incorporated herein; and

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18 WHEREAS, the Utah Legislature, during the 2023 General Session, passed House Bill 206,
19 which requires counties to adopt airport overlay zoning regulations to protect airports from
20 incompatible development and safety hazards; and

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22 WHEREAS, If the County fails to adopt an airport overlay zone by December 31, 2024, the
23 following requirements shall apply in an airport influence area (within 5,000 feet of a runway):
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- (a) The County must notify a person building on or developing land within an airport influence area, in writing, of aircraft overflights and associated noise;
- (b) The County must, as a condition to granting a building permit, subdivision plat, or a requested zoning change within an airport influence area, require the person building or developing land to grant or sell to the airport owner, at appraised fair market value, an aviation easement; and
- (c) The County must require that a person building or developing land within an airport influence area conform to the requirements of Title 72, Chapter 10 of the Utah Code (Utah Aeronautics Act) and 14 C.F.R. Part 77; and

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28 WHEREAS, the Duchesne County Planning Commission conducted a public hearing on May 1,
29 2024 regarding this proposed amendment and has recommended approval; and

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31 WHEREAS, the Duchesne County Commission conducted a public hearing regarding this
32 proposed amendment on May 13, 2024 and accepted the Planning Commission recommendation.
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34 **BE IT HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS that:**

35
36 SECTION 1.

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38 A new Section 8-9-20 is added to the Duchesne County Zoning Ordinance to read as follows:

Section 8-9-20 Duchesne Municipal Airport Overlay District

A. Purpose. It is the purpose of this section to regulate and restrict the height of structures and objects of natural growth, and otherwise regulate the use of land, in the vicinity of the Duchesne City Municipal Airport by creating the appropriate zones and establishing the boundaries thereof; defining certain terms used in this section, referring to the Duchesne City Municipal Airport Land Use Compatibility Overlay Zones map, which is incorporated in and made a part of this section; and, providing for enforcement.

B. Findings. To assist communities in the appropriate land use and height restriction designations, the Federal Aviation Administration (FAA) has published two documents, FAR Part 77, Objects Affecting Navigable Airspace, and Advisory Circular (AC) 150/5300-13, Airport Design. This section incorporates the guidelines set forth in these FAA documents. Based on this information Duchesne County finds:

1. That it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of obstructions that are hazardous to air navigation be prevented; and

2. That the encroachment of noise sensitive or otherwise incompatible land uses within certain areas as set forth in this section may endanger the health, safety and welfare of the owners, occupants, or users of the land in proximity to the Duchesne City Municipal Airport;

3. That the Duchesne City Municipal Airport fulfills an essential community purpose.

C. Applicability. The provisions of this section shall apply to all lands, buildings, structures, natural features or uses located within those areas that are defined by the airport overlay district and designated on the Duchesne Airport Part 77 Surfaces map which identifies areas of height limitations and the Duchesne City Municipal Airport Land Use Compatibility Overlay Zones map.

D. Definitions. The following definitions shall apply to regulation and consideration of airport overlay zones, as regulated by this section:

1. "Airport" means the Duchesne Municipal Airport.

2. "Airport elevation" means the highest point of the airport's useable landing area measured in feet above sea level. The Duchesne Municipal Airport is five thousand eight hundred thirty (5,830) feet above mean sea level.

3. "Approach surface" means an imaginary surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the

84 primary surface and at the same slope as the approach zone height limitation slope
85 set forth in Section 8-9-20 F below. The perimeter of the approach surface
86 coincides with the perimeter of the approach zone in plan view.
87

- 88 4. “Approach, Transitional, Horizontal, and Conical Zones.” These zones are
89 defined in Section 8-9-20 E below.
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- 91 5. “Conical surface” means an imaginary surface extending outward and upward
92 from the periphery of the horizontal surface at a slope of twenty (20) to one (20:1)
93 for a horizontal distance of four thousand (4,000) feet.
94
- 95 6. “FAA Form 7460-1, Notice of Proposed Construction or Alteration” means a
96 form which the Federal Aviation Administration requires to be completed by
97 anyone who is proposing to construct or alter an object that could affect airspace
98 and allows the FAA to conduct an airspace analysis to determine whether the
99 object will adversely affect airspace or navigational aids. More information
100 regarding this requirement can be found on the FAA website.
101
- 102 7. “FAR Part 77 surfaces” means imaginary airspace surfaces, per Part 77 of [49](#) CFR
103 of the Federal Aviation Regulations, established with relation to each runway of
104 an airport. There are five types of surfaces: (1) primary; (2) approach; (3)
105 transitional; (4) horizontal; and (5) conical.
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- 107 8. “Hazard to air navigation” means an obstruction determined to have a substantial
108 adverse effect on the safe and efficient utilization of the navigable airspace.
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- 110 9. “High Density Residential” means residential development greater than one
111 dwelling unit per acre.
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- 113 10. “Horizontal surface” means a horizontal plane one hundred fifty (150) feet above
114 the established airport elevation, the perimeter of which plane coincides with the
115 inner perimeter of the conical surface.
116
- 117 11. “Low Density Residential” means residential development of one dwelling unit
118 per acre or less.
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- 120 12. “Obstruction” means any permanent or temporary structure, growth, or other
121 object, including a mobile object, which exceeds a limiting height set forth in
122 Section 8-9-20 F below.
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- 124 13. “Person” means an individual, firm, partnership, corporation, company,
125 association, joint stock association, or governmental entity, including a trustee,
126 receiver, assignee, or similar representative of any of them.
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14. “Primary surface” means a surface longitudinally centered on a runway. The primary surface has a width and distance beyond each end of the runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The primary surface at Duchesne Municipal Airport is five hundred (500) feet wide and extends two hundred (200) feet beyond runway end for the current three thousand ninety (3,090) foot Runway 8/26.
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15. “Runway” means a defined area on an airport prepared for landing and takeoff of aircraft along its length; Runway 17/35 and Runway 8/26 at the Duchesne Municipal Airport.
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16. “Structure” means an object (including a mobile object extending 15 feet or more above a roadway surface, 17 feet or more above a highway surface or 23 feet or more above a railroad surface) constructed or installed by persons, including, but without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.
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17. “Transitional surfaces” means those imaginary surfaces extending outward at ninety (90) degree angles to the runway centerline at a slope of seven feet horizontally for each foot vertically, from the sides of the primary and approach surfaces to where they intersect with the horizontal and conical surfaces.
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18. “Tree” means any vegetation of natural growth.
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19. “Utility runway” and “non-utility runway” mean runways that are constructed for and intended to be used by propeller-driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight or less, or more, respectively.
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20. “Visual runway” and “instrument (non-precision) runway” mean runways intended solely for the operation of aircraft using visual or instrument approach procedures, respectively.
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- E. Airport Height Limitation Zones. In order to carry out the provisions of this section, zones are established which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to the Duchesne Municipal Airport. The zones are shown on the Duchesne Municipal Airport Part 77 Surfaces Map, which is a part of the Duchesne Airport Layout Plan (ALP). An area located in more than one zone is considered to be only in the zone with the more restrictive height limitation. The various zones are defined as follows:
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1. Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is two hundred fifty (250) feet wide for Runway 17/35 and for Runway 8/26. The approach zone expands uniformly to the width of one thousand two hundred fifty (1,250) feet at a horizontal distance of five thousand

173 (5,000) feet from the primary surface end. Its centerline is the continuation of the
174 centerline of the runway.

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176 2. Transitional Zone. Transitional zones are the areas beneath the transitional
177 surfaces.

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179 3. Horizontal Zone. Horizontal zones are established by swinging arcs of ten
180 thousand (10,000) feet radii from the center of each end of the primary surface of
181 each runway and connecting the adjacent arcs by drawing lines tangent to those
182 arcs. Horizontal zones do not include approach and transitional zones.

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184 4. Conical Zone. Conical zones are established as the area commencing at the
185 periphery of the horizontal zones and extending outward and upward twenty (20)
186 to one (20:1) therefrom for a horizontal distance of four thousand (4,000) feet.

187
188 F. Height limitations. No structure shall be erected, altered, or maintained and no tree
189 shall be allowed to grow in any zone, as defined in this section, to a height in excess
190 of the applicable height limit established for that zone. The applicable height
191 limitations for each of the zones are established as follows:

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193 1. Approach Zone. Slopes thirty-four (34) feet outward for each foot upward (34:1)
194 beginning at the end of and at the same elevation as the primary surface and
195 extending to a horizontal distance of ten thousand (10,000) feet along the
196 extended runway centerline.

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198 2. Transitional Zones. Slopes seven feet outward for each foot upward (7:1)
199 beginning at the sides of and at the same elevation as the primary surface and the
200 approach surface, and extending to a height of one hundred fifty (150) feet above
201 the airport elevation.

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203 3. Horizontal Zone. One hundred fifty (150) feet above the airport elevation or at a
204 height of five thousand nine hundred eighty seven (5,987) feet above mean sea
205 level.

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207 4. Conical Zone. Slopes twenty (20) feet outward for each foot upward (20:1) for
208 four thousand (4,000) feet beginning at the periphery of the horizontal zone to a
209 height of six thousand one hundred eighty seven (6,187) feet above mean sea
210 level.

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212 G. Safety Measures. No use may be made of land or water within any zone defined
213 herein so as to:

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215 1. Create electrical interference with the navigational signals or radio
216 communications between the airport and aircraft;

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- 218 2. Make it difficult for pilots to distinguish between airport lights and others; no new
219 or expanded industrial, commercial, recreational or residential use shall project
220 lighting directly onto an existing runway, taxiway, or approach/departure surface
221 except where necessary for safe air travel;
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- 223 3. Result in glare in the eyes of pilots using the airport; impair visibility in the
224 vicinity of the airport;
225
- 226 4. Create bird strike hazards; or
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- 228 5. Otherwise endanger or interfere with the landing, take-off, or maneuvering of
229 aircraft intending to use the airport.
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- 231 6. Approval of cellular and other communications or transmission towers located
232 within any zone described within Section 8-9-20 E above shall be conditioned to
233 require their removal within ninety (90) days of discontinuance of use.
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- 235 H. Airport Safety Compatibility Zones (ASCZ). Zones described below are shown on
236 the Duchesne Municipal Airport Land Use Compatibility Overlay Zones map (see
237 Ordinance #24-410, Exhibit A), with the prohibited land uses listed in order to
238 promote the general safety and general welfare of properties surrounding the airport
239 and the continued viability of the airport.
240
- 241 1. Zone 1—Runway Protection Zone (RPZ). Only airport uses and activities are
242 allowed within the RPZ.
243
- 244 2. Zone 2—Inner Approach/Departure Zone. Prohibited land uses within this zone
245 are residences (all residential types), places of public assembly such as churches,
246 schools (K-12), colleges, hospitals, office buildings, shopping centers and other
247 uses with similar concentrations of persons. Asphalt plants and rock crushing are
248 also prohibited. Fuel storage facilities or the storage or use of significant amounts
249 of materials which are explosive, flammable, toxic, corrosive, or otherwise exhibit
250 hazardous characteristics shall not be located within this zone. Hazardous wildlife
251 attractants including waste disposal operations, water management and storm
252 water facilities with above-ground water storage, and manmade wetlands shall not
253 be allowed within this zone.
254
- 255 3. Zone 3—Inner Turning Zone. Prohibited land uses within this zone are schools
256 (K-12), residential (all types) and hospitals.
257
- 258 4. Zone 4—Outer Approach/Departure Zone. Prohibited land uses within this zone
259 are high density residential, places of public assembly such as churches, schools
260 (K-12), hospitals, office buildings, shopping centers and other uses with similar
261 concentrations of persons. Only low-density residential uses are allowed.

262 Residential areas should have the disclosure statement included in Section 8-9-20
263 K below.

264
265 5. Zone 5—Sideline Zone. Prohibited land uses within this zone are residences (all
266 types), places of public assembly such as churches, schools, hospitals, office
267 buildings, shopping centers and other uses with similar concentrations of persons.
268 Mining, including sand and gravel pits, is prohibited in this zone.

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270 6. Zone 6—Traffic Pattern Zone. Prohibited land uses within this zone are schools,
271 hospitals and other uses with similar concentrations of persons. Only low-density
272 residential uses are allowed. Residential areas should have the disclosure
273 statement included in Section 8-9-20 K below.

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275 I. Permits.

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277 1. Future Uses. Except as specifically provided in this section, no material change
278 shall be made in the use of land, no structure shall be erected or otherwise
279 established, and no tree shall be planted in any zone defined in this section unless
280 a permit shall have been applied for and granted. Each application for a permit
281 shall indicate the purpose for which the permit is desired, with sufficient
282 particularity to determine whether the resulting use, structure, or tree would
283 conform to the provisions of this section. Each application for a permit shall be
284 forwarded by the County to Duchesne City for review and a recommendation. No
285 permit for a use inconsistent with the provisions of this section shall be granted
286 unless a variance has been approved in accordance with this section. All permit
287 applications within the airport overlay district shall, in addition to being reviewed
288 through the standard development review process, be subject to the following:

289
290 a. All developments, permits or plats with proposed buildings and/or structures
291 found to be within twenty (20) feet of any of the height limitations described
292 in Section 8-9-20 F above and/or all buildings and structures over two
293 hundred (200) feet in height must submit a site plan, building elevations and
294 an FAA Form 7460-1 to the city/county. Upon review, further documentation
295 shall be required, if more accurate data is necessary for a determination of
296 impact including detailed surveys by a licensed land surveyor.

297
298 b. All developments, permits or plats falling within the ASCZs described in
299 Section 8-9-20 H above associated with special use permits, variances or
300 existing nonconforming uses must also submit a site plan to city/county
301 planning for review.

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303 c. In the area lying within the limits of a horizontal zone and conical zone, no
304 permit shall be required for any tree or structure less than seventy-five (75)
305 feet of vertical height above the ground except when, because of terrain, land

306 contour, or topographic features, the tree or structure would extend above the
307 height limits prescribed for such zones.

308
309 d. In areas lying within the limits of the approach zones, but at a horizontal
310 distance of not less than forty-three thousand two hundred (43,200) feet from
311 each end of the runway, no permit shall be required for any tree or structure
312 less than seventy-five (75) feet of vertical height above the ground except
313 when such tree or structure would extend above the height limits prescribed
314 for the approach zone.

315
316 e. Nothing contained in any of the foregoing exceptions shall be construed as
317 permitting or intending to permit any construction or alteration of any
318 structure or growth of any tree in excess of any height limits established by
319 this section.

320
321 2. Existing Uses. No permit shall be granted that would allow the establishment or
322 creation of an obstruction, or permit a nonconforming use, structure, or tree to
323 become a greater hazard to air navigation than it was on the effective date of this
324 section.

325
326 3. Nonconforming Uses Abandoned or Destroyed. Whenever the city/county
327 determines that a nonconforming tree or structure has been abandoned, or more
328 than eighty (80) percent torn down, physically deteriorated, or decayed, no permit
329 shall be granted that would allow such a structure or tree to extend above the
330 applicable height limit or otherwise deviate from the zoning regulations.

331
332 4. Variances.

333
334 a. Any person desiring to erect or increase the height of any structure, or permit
335 the growth of any tree, or use property not in accordance with the provisions
336 of this section, may apply to the county planning department for a variance.
337 The application for variance shall be accompanied by a determination from
338 the Federal Aviation Administration as to the effect of the proposal on the
339 operation of air navigation facilities and the safe, efficient use of navigable air
340 space.

341
342 b. A variance shall be allowed where it is duly found that a literal application or
343 enforcement of this section will result in an unnecessary hardship and relief
344 granted will not be contrary to the public interest; will not create a hazard to
345 air navigation; will do substantial justice; and will be in accordance with the
346 spirit of this section.

347
348 c. No application for variance may be considered unless a copy of the
349 application has been furnished to the airport owner for advice as to the
350 aeronautical effects of the variance. If the airport owner does not respond to

351 the application within fifteen (15) days after receipt, the appropriate
352 jurisdiction may act on its own to grant or deny the application.

- 353
- 354 5. Obstruction Marking and Lighting. Any permit or variance granted may, if such
355 action is deemed advisable to effectuate the purpose of this section, be
356 conditioned to require the owner of the structure or tree in question to install,
357 operate, and maintain, at the owner's expense, necessary markings and lights. If
358 deemed proper by the city/county planning offices, this condition may be
359 modified to require the owner to permit the airport owner at its own expense to
360 install, operate and maintain the necessary markings and lights.
- 361
- 362 6. Conditional Use Permit. Any use allowed under any other county zoning code,
363 which will be located in an approach zone, shall be treated as a conditional use
364 under that code and shall be subject to all provisions and procedures required for
365 conditional uses under that code.

366

367 J. Nonconforming uses.

- 368
- 369 1. Effect Not Retroactive. The provisions of this section shall not be construed to
370 adversely affect any existing structure or use as of its effective date, nor require
371 any change in the construction, alteration or intended use of any prior structure,
372 the construction or alteration of which was begun prior to its effective date, so
373 long as it is diligently prosecuted.
- 374
- 375 2. Marking and Lighting. The owner of any existing nonconforming structure or tree
376 is required to permit the installation, operation, and maintenance of markers and
377 lights deemed necessary by the operating authority of the airport to indicate to the
378 operators of aircraft the presence of obstructions. The markers and lights shall be
379 installed, operated, and maintained at the expense of the operating authority of the
380 airport.

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382 K. Disclosure.

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- 384 1. To all extents possible, property owners and potential property buyers should be
385 made aware of the following disclosure. The disclosure statement shall be listed
386 on all approved subdivision plats, minor subdivision plats, conditional use
387 permits, agreements, deeds and zoning approvals for building permits within any
388 of the identified zones in Section 8-9-20 E or 8-9-20 H above:

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390 "Properties near the Duchesne Municipal Airport may be subject to varying noise
391 levels and vibration. Properties near the airport may be located within height and
392 use restriction zones as described and illustrated by Federal standards and
393 regulations and the Duchesne City/Duchesne County Zoning and Subdivision
394 regulations. There is the potential that standard flight patterns will result in
395 aircraft passing over the properties at low altitudes and during all hours of the

396 day. Generally, it is not practical to redirect or severely limit airport usage and/or
397 planned airport expansion. Developments near the airport should assume that at
398 any given time there will be some impact from air traffic.”
399

400 SECTION 2. Severability. If any court of competent jurisdiction declares any Section of this
401 Ordinance invalid, such decision shall be deemed to apply to that Section only, and shall not
402 affect the validity of the Ordinance as a whole or any part thereof other than the part declared
403 invalid.
404

405 SECTION 3. Effective Date. This ordinance shall become effective fifteen (15) days after
406 publication.
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408 DATED this 13th day of May, 2024.
409

410 ATTEST:
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DUCHESNE COUNTY
BOARD OF COMMISSIONERS

412
413
414
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417 _____
418 Chelise Jessen
419 County Clerk/Auditor
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417 _____
418 Irene Hansen, Commissioner
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421 _____
422 Greg Miles, Commissioner
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425 _____
426 Tracy Killian, Commissioner