

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

ORDINANCE #24-407

**AN ORDINANCE AMENDING TITLE 8, CHAPTER 7 OF THE
DUCHESNE COUNTY ZONING ORDINANCE REGARDING
FLARE GAS POWER GENERATION**

WHEREAS, a new land use has appeared in Duchesne County, involving the installation of generators powered by flare gas derived from oil and gas production. These locations are commonly referred to as “hash pads,” and are used to generate electricity for the crypto currency mining industry; and,

WHEREAS, flare gas power generation sites have, in certain circumstances, demonstrated impacts on surrounding property owners; especially noise and high frequency vibration; and

WHEREAS, Duchesne County finds it necessary to incorporate this new land use into the county zoning ordinance and establish standards to help mitigate the impacts of the use; and

WHEREAS, the Duchesne County Planning Commission conducted a public hearing on May 1, 2024 regarding these proposed amendments to the Zoning Ordinance and recessed the public hearing until June 26, 2024; and

WHEREAS, the Duchesne County Planning Commission reopened the public hearing on June 26, 2024 and recommended approval of this revised ordinance by the Duchesne County Commissioners; and

WHEREAS, the Duchesne County Commission opened their public hearing regarding these proposed amendments on May 6, 2024 and recessed the hearing until July 8, 2024 to allow more time for the Planning Commission to formulate its recommendation; and

WHEREAS, the Duchesne County Commission reopened their public hearing regarding these proposed amendments on July 8, 2024 and adopted findings of fact to support passage of the revised ordinance.

BE IT HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS that:

SECTION 1. Section 8-2-1 of the Duchesne County Code is amended to include three new definitions as follows:

FLARE GAS: Gas produced from an oil or gas well or gas processing facility which might be flared or vented, if not otherwise put to beneficial use.

FLARE GAS POWER GENERATION: Electric power generated from Flare Gas. Flare gas power generation may be used to power on-site operations, sold back to the grid, or

44 used for other energy-intensive operations or activities, whether such power generation is
45 utilized at the site where the Flare Gas is generated or at other locations where the
46 beneficial use of the Flare Gas Power Generation is realized. This definition shall not
47 include power generation at an oil and gas drilling and production facility for uses
48 incidental to oil and gas production.
49

50 FLARE GAS POWER GENERATION FACILITY: The generators and associated
51 equipment designed to generate electrical power using Flare Gas.
52

53 SECTION 2. Section 8-6-1 of the Duchesne County Code is amended to add one new land use
54 to the Table of Uses as follows:
55

56 8-6-1: TABLE OF USES

	A-10/A-5	A-2 ½	R-1	R -½	C	I
57						
58 FLARE GAS POWER						
59 GENERATION FACILITY	CU	CU	X	X	CU	CU
60						
61						

62 SECTION 3. Chapter 9, Supplementary Regulations, of the Duchesne County Code is amended
63 to add a new Section 8-9-19 as follows:
64

65 8-9-19: FLARE GAS POWER GENERATION
66

- 67 1. All flare gas power generation shall comply with the noise standards of Duchesne County
68 Nuisance Ordinance, Section 3-1-4-G. To ensure compliance with these standards:
69
- 70 a. The operator of the proposed Flare Gas Power Generation Facility shall conduct a
71 noise study to determine preexisting ambient noise levels in the area. Noise level
72 recorders shall be placed at multiple locations, at a distance of 1,320 feet from the
73 edge of the proposed facility, where property owners have provided access for the
74 study. Ambient noise levels shall be recorded for a period of at least seventy-two
75 (72) hours, to include at least one weekday and at least one weekend day. The data
76 collected during the noise study shall be provided with the conditional use permit
77 application.
78
 - 79 b. Noise emitted from the Flare Gas Power Generation Facility shall not:
80 (i) Cause a material increase in the ambient noise level of more than 35
81 decibels above the ambient noise level as determined in subsection 1(a) or
82 (ii) Together with the ambient levels exceed a maximum noise level of 60
83 decibels.
84

85 c. In the event a substantial question arises concerning the noise emitted from the Flare
86 Gas Power Generation Facility, the operator shall conduct a subsequent noise study to
87 verify whether the Flare Gas Power Generation Facility is the cause of an exceedance of
88 the noise emission standards set forth herein. If the Flare Gas Power Generation Facility
89 is the cause of the exceedance, the facility shall not be operated unless noise mitigation
90 measures have been taken and further study shows that it is operating in compliance with
91 the noise emission standards set forth herein.

92
93 d. Flare Gas Power Generation facilities must be set back at least 1,320 feet from the
94 nearest primary or secondary residence or building open to the public to provide a noise
95 and vibration buffer, unless the owner(s) of said residences or buildings consent in
96 writing to a lesser distance and said consent is submitted with the conditional use permit
97 application.

98
99 e. If a noise study shows that a Flare Gas Power Generation Facility does not meet the
100 noise emission standards in subsections 1 (a) and 1(b) above, the noise source shall be
101 placed in an enclosed sound attenuating building or be provided with a sound wall or
102 other measures to mitigate noise impacts in accordance with the noise emission standards
103 in subsections 1 (a) and 1 (b) above.

104
105 2. Flare Gas Power Generation equipment must not cause noticeable vibration within or beyond
106 the 1,320 foot setback or the property line of a consenting owner under subsection 1(d). The
107 operator of a Flare Gas Power Generation Facility may use any method or vibration
108 reduction technology designed by a professional in the field to achieve compliance with this
109 requirement.

110
111 3. It is the intent of the County that the terms of this ordinance shall apply to all proposed Flare
112 Gas Power Generation facilities sited after the effective date of this Ordinance unless
113 otherwise waived by rights of the affected surface owner(s).

114
115 4. Notwithstanding the foregoing, if future development of any primary or secondary dwelling
116 (as designated in the county tax rolls) or any building open to the public, encroaches within
117 1,320' of an existing Flare Gas Power Generation facility, the requirements of this section
118 shall not apply.

119
120 SECTION 4. Severability. If any court of competent jurisdiction declares any Section of this
121 Ordinance invalid, such decision shall be deemed to apply to that Section only, and shall not
122 affect the validity of the Ordinance as a whole or any part thereof other than the part declared
123 invalid.

126 SECTION 5. Effective Date. This ordinance shall become effective fifteen (15) days after
127 publication.

128
129 DATED this 8th day of July, 2024.

131
132 ATTEST:

DUCHESNE COUNTY
BOARD OF COMMISSIONERS

133
134
135
136 _____
137 Chelise Jessen
138 County Clerk/Auditor

Irene Hansen, Chairman

139
140 _____
141 Greg Miles, Member

142
143
144 _____
145 Tracy Killian, Member