

**DUCHESNE COUNTY**  
**COMMISSION MEETING**  
**NOVEMBER 18, 2024**

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**REQUEST TYPE:** Zoning Ordinance Text Amendment  
**APPLICANT:** Duchesne County  
**PROPOSAL:** Amendments of the Zoning Ordinance associated with Oil & Gas Drilling and Production  
**LOCATION:** County Wide  
**ZONING DESIGNATION:** N/A

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## FINDINGS OF FACT

### 1. PROPOSAL DESCRIPTION

The zoning ordinance amendments found in Ordinance #24-409 are proposed as a result of rapid expansion of oil and gas drilling and production facilities on private (fee) land in Duchesne County, with the associated impacts on residents and roads in agricultural and rural residential areas. These proposed amendments are summarized below:

Amends the definition of "Oil and Gas Drilling Facilities/Production" to "Oil and Gas Drilling and Production Facilities," which include well pads and their associated equipment, compressor stations and water handling facilities;

Amends the "Oil and Gas Drilling and Production Facilities" use in the Table of Uses to now require a conditional use permit in all zoning districts. Currently, these facilities are permitted outright in the A-10, A-5, Commercial and Industrial zones. A majority of the county's fee lands are zoned A-5 and most oil and gas drilling and production facilities have thus not required a conditional use permit;

Amends the oil and gas drilling and production facilities section to require administrative conditional use permits for wells (not yet spudded) and compressor stations or water handling facilities (where construction has not commenced) in all zoning districts and;

Provides for payment of a transportation mitigation fee as formulated by Jones & DeMille Engineering, to be incorporated in the amended County Transportation Master Plan.

### 2. HISTORY OF EVENTS

March 13, 2024	The application was submitted.
March 13, 2024	The application was deemed complete.
March 20 & 27, 2024	Notice of Hearings published in the Uintah Basin Standard
April 3, 2024	Planning Commission hearing (hearing recessed to June 26)
April 15, 2024	County Commissioner's hearing (hearing recessed to July 8)
June 26, 2024	Planning Commission hearing continued/recessed indefinitely
July 8, 2024	County Commissioner's hearing opened & recessed to 7-29-24
July 15, 2024	County Commission work session
July 22, 2024	County Commission work session
July 29, 2024	Public hearing opened and recessed to September 16, 2024
August 19, 2024	County Commission work session
August 26, 2024	County Commission work session
September 16, 2024	Public hearing opened and recessed to October 21, 2024
September 30, 2024	County Commission work session
October 7, 2024	County Commission work session
October 21, 2024	Public hearing reopened and recessed to November 18, 2024
November 18, 2024	Public hearing reopened

3. ZONING ORDINANCE: The procedure for considering amendments to the zoning map or text is set forth below:

#### **SECTION 8-1-7: AMENDMENTS TO TITLE AND MAP:**

- A. Application: A proposed amendment to this title and map may be initiated by any property owner, any person residing in the county, any business owner, the county commission,

planning commission, board of adjustment or the county staff by filing an application for zoning ordinance and map amendment. **Findings: The applicant is Duchesne County.**

B. Notice of Public Hearings and Public Meetings:

1. The county shall give:
  - a. Notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use ordinance; and
  - b. Notice of each public meeting on the subject.
2. Each notice of a public hearing under subsection B.1.a. of this section shall be:
  - a. Mailed to each affected entity at least ten (10) calendar days before the public hearing;
  - b. Posted:
    - (1) In at least three (3) public locations within the county; or
    - (2) On the county's official website; and
  - c. Published:
    - (1) In a newspaper of general circulation in the area at least ten (10) calendar days before the public hearing; and
    - (2) On the Utah public notice website at least ten (10) calendar days before the public hearing; or
    - (3) Mailed at least ten (10) days before the public hearing to:
      - (A) Each property owner whose land is directly affected by the land use ordinance change; and
      - (B) Each adjacent property owner within three hundred feet (300') of the boundary of the rezone area.
3. Each notice of a public meeting under subsection B. 1. b. of this section shall be at least twenty-four (24) hours before the meeting and shall be posted:
  - a. In at least three (3) public locations within the county; or
  - b. On the county's official website.
4. a. If the county plans to hold a public hearing in accordance with section 17-27a-502 of the Utah code to adopt a zoning map or map amendment, the county shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed map at least ten (10) days prior to the scheduled day of the public hearing.

b. The notice shall:

- (1) Identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;
- (2) State the current zone in which the real property is located;
- (3) State the proposed new zone for the real property;
- (4) Provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;
- (5) State that the owner of real property may no later than ten (10) days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;
- (6) State the address where the property owner should file the protest;
- (7) Notify the property owner that each written objection filed with the county will be provided to the municipal legislative body; and
- (8) State the location, date, and time of the public hearing described in section 17-27a-502 of the Utah code.

c. If a county mails notice to a property owner in accordance with subsection B. 2. c. (3) of this section for a public hearing on a zoning map or map amendment, the notice required in this subsection B. 4. may be included in or part of the notice described in subsection B. 2. c. (3) of this section rather than sent separately.

5. The planning commission shall consider all written objections received during their public hearing process and forward a copy of all such objections to the county commissioners.
6. The county commission is designated as the land use authority for zoning text or map amendments. The commission shall consider the proposed zoning ordinance text or map amendment and the recommendation of the planning commission pursuant to the procedures established by this section and Utah Code Annotated. The county commission may approve the amendment, revise the proposed amendment and approve the proposed amendment as revised, or reject the proposed amendment. There is no minimum area or diversity of ownership requirement for a zone designation. Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or the invalidity of a county decision.

**Findings: The public notice requirements have been met by publication of the hearings notice in the Uintah Basin Standard on March 20 & 27, 2024, on the county website, posting in the county administration building and, in the Utah Public Notice website. Planning Commission agendas are emailed to affected entities and interested parties one week in advance of the meeting. The Planning Commission notified interested parties attending the April 3, 2024 public hearing of the recess of the hearing to June 26, 2024. The County Commissioners notified interested parties**

attending the April 15, 2024 public hearing of the recess of the hearing to July 8, 2024. The County Commissioners notified interested parties attending the July 8, 2024 hearing of work sessions to be held on July 15 and 22, 2024 and the continuation of the public hearing on July 29, 2024. The County Commissioners notified interested parties attending the July 29, 2024 hearing of work sessions to be held on August 19 and 26, 2024 and the continuation of the public hearing on September 16, 2024. The County Commissioners notified interested parties attending the September 16, 2024 hearing of work sessions to be held on September 30 and October 7, 2024 and the continuation of the public hearing on October 21, 2024, to November 18, 2024.

C. Criteria for Approval: In considering a proposed amendment to the zoning ordinance and map, the applicant shall identify, and the planning staff, planning commission and the county commission shall consider, the following factors:

1. The overall community benefit of the proposed amendment;

**Findings:** The amendments have been proposed to address concerns that the County has about oil and gas industry truck traffic on county roads and address concerns of private property owners, now that drilling and production has increased substantially on fee lands. The ordinance will benefit the overall community and citizens who have been affected by increasing oil and gas activities on private lands.

2. Consistency with the goals and policies of the general plan;

**Findings:** The general plan states the following associated with oil and gas development on private lands:

*“For private lands within the County, the County supports the provisions of the Surface Owner Protection Act, which was enacted by the 2012 Utah Legislature to establish surface owner rights and responsibilities when working with energy development companies. An Oil & Gas Liaison has been appointed by the County to help improve communication and cooperation between fee owners and energy development companies.”*

**The Transportation Plan, which is an element of the General Plan, states the following associated with heavy truck traffic on County Roads:**

*“Developments within Duchesne County and their associated impact fees and/or impact mitigation measures shall be addressed as per the recommendations in this section. Several models can be adopted to mitigate impacts to infrastructure from development traffic loadings. They are:*

*1. Proactive, performance based (Prepare infrastructure for projected impact prior to development. “Armor up” the pavement structure).*

*2. Reactive, performance based (impact fees for damage to infrastructure).*

*3. Reactive, not performance based (impact fee not associated with infrastructure impacts from a development).*

*Research by the Texas Department of Transportation suggests that a 7-to-1 cost benefit can be realized if roads are "armored up" prior to exposure to operator traffic. In other words, working proactively with industry and expending funds to improve infrastructure up front before major developments occur will realize significant savings compared to situations where infrastructure is rebuilt after it has been damaged. This is a proactive, performance-based approach that strengthens pavements prior to development activities and assesses fees for facility damage resulting from higher traffic volumes and heavy trucks.*

*This approach requires coordination early and often between industry, specifically major energy companies, and Duchesne County. With the understanding that significant cost savings can be realized by improving pavement structures prior to developments the following proactive process to mitigate infrastructure impacts should be followed for major developments in Duchesne County:*

- 1. Make a determination as to the traffic impact of the development. For example, The Uintah Basin Energy and Transportation Study found that an average of 1,000 trucks per well location is a good estimate of the required truck traffic for an oil or gas development in the Uintah Basin.*
- 2. If the development will increase traffic by more than 25% of normal operating volume then it will be deemed "Extraordinary Use" and measures should be taken to improve insufficient pavement structures prior to the development.*
- 3. The mitigation measures pursued and fees assessed to the developer should be site specific. The following criteria should be considered when making this determination. It is not implied that this list is "all inclusive" and contains all elements to be considered when determining appropriate mitigation measures and impact fees.*
  - a. The length, width, etc. of county infrastructure impacted by the development.*
  - b. The current condition of the pavement.*
  - c. The current depth of pavement and underlying base material.*
  - d. The classification and associated estimated strength of the native soil. An estimated California Bearing Ratio (CBR) based on the native soil classification would likely be sufficient unless further analysis is deemed necessary.*
  - e. Any existing geometric deficiencies or other concerns which could have a detrimental impact on the safety of the traveling public with the increased traffic from the development.*
  - f. The projected equivalent single axle loads (ESALs) created by the development.*

- g. *The required pavement structure to handle the increased traffic loading from the development.*
- h. *Any deficiencies in drainage infrastructure that could be impacted by the development.*

*Once the site specific impacts to the existing infrastructure are determined and associated probable costs of required improvements are calculated, it is optimal for all parties for Duchesne County to partner with the developer to make the improvements prior to the development impact occurring. In this scenario the developer would be required to fund, by way of an impact fee, the improvements required due to the increased traffic load of their development. Duchesne County would fund any additional improvements beyond what is deemed necessary for the development.*

*Impact fees may be imposed only after Duchesne County complies with the requirements of Title 11, chapter 36a of the Utah Code.”*

**The proposed ordinance is consistent with the above provisions of the County General Plan (Transportation Element). The administrative conditional use process for oil and gas facilities will enable the County to more effectively consider how such land uses affect private property owners and the County road system. The proposed ordinance requires the payment of a transportation mitigation fee that will be adopted via a separate action.**

3. Compatibility with the neighborhood;

**Findings: This criterion is not applicable as the proposed amendment would affect all areas of the county experiencing oil and gas development; not just a particular neighborhood. However, applying the conditional use permit requirement to all new oil and gas development on private lands will help address neighborhood compatibility issues being experienced as oil and gas activity increases on private lands.**

4. What changes have occurred in the neighborhood since the zoning ordinance and map or latest amendment was enacted;

**Findings: This criterion is not applicable as the proposed amendment would affect all areas of the county experiencing oil and gas development; not just a particular neighborhood. The changes that have occurred in some neighborhoods, since the 2012 oil and gas regulations were established, are associated with an influx in oil and gas drilling and production on private lands that has brought several impacts, to include noise, dust and truck traffic. These changes in certain neighborhoods; especially the industry’s use of county roads, have generated the need for this ordinance.**

5. Whether a change in the use for the affected properties will unduly affect the uses of adjoining properties; and

**Findings: This criterion is not applicable as the proposed amendment would affect all areas of the county experiencing oil and gas development; not just a particular**

**neighborhood. However, the change in use associated with oil and gas development encroaching into residential-agricultural areas has unduly affected the use of adjoining properties in some areas. This ordinance is an attempt to address and mitigate those negative effects.**

6. Consider the interest of the applicant.

**Findings: The County is the applicant in this case and has an interest in amending its zoning ordinance to address oil and gas industry use of county roads and effects on private property owners, now that drilling and production has increased substantially on fee lands.**

D. Effect of Amendment: An amendment to the zoning ordinance and map shall not authorize the development of land. After an amendment has been approved by the county commission, no development shall occur until the required development permits and licenses have been issued by the county.

### **SECTION 8-3-3: PLANNING COMMISSION**

Section 8-3-3 B. 9. e. of the Duchesne County Zoning Ordinance states that:

*e. The county commission may consider the planning commission's failure to make a timely recommendation as a negative recommendation.*

**Findings: The County Commission hereby finds that the Planning Commission failed to make a timely recommendation as the proposed Ordinance received initial Planning Commission review on April 3, 2024; the matter was recessed until June 26, 2024, and then recessed indefinitely, until a pending road study is completed and stakeholders are given eight (8) weeks to review the results of that study and the proposed ordinance. The County Commission hereby finds this indefinite recess to be a negative recommendation under Section 8-3-3 B. 9. e. of the Duchesne County Zoning Ordinance.**

### **CONCLUSIONS**

1. The request complies with the text amendment criteria in Section 8-1-7 of the Zoning Ordinance.
2. The request is valid.

### **DECISION**

Adopting of these findings and conclusions and approval of the amendments to the Duchesne County Zoning Ordinance as set forth in Ordinance #24-409.