ORDINANCE #12-308

AN ORDINANCE AMENDING TITLE 8, THE DUCHESNE COUNTY ZONING ORDINANCE

WHEREAS, by Ordinance #05-240, passed October 24, 2005, Duchesne County first began to regulate the placement of oil and gas wells on private lands and required that well sites be located at least 660 feet from existing dwellings; and

WHEREAS, by Ordinance #10-286, passed January 31, 2011, Duchesne County amended its zoning ordinance to require an administrative conditional use permit for oil and gas wells in A-2.5, R-1 and R ½ zones in the County and amended the permit approval criteria; and

WHEREAS, as oil and gas well drilling on private lands in the county has accelerated in recent years and such drilling has encroached onto agricultural- residential parcels in the A-5 and A-10 zones, the County has considered applying development standards for oil and gas wells to all private land in the County, while continuing to require an administrative conditional use permit only in the A-2.5, R-1 and R ½ zones; and

WHEREAS, increased drilling on private lands has adverse impacts on surface owners, such as

WHEREAS, the Duchesne County Planning Commission has conducted a public hearing regarding these proposed amendments and has recommended approval of this Ordinance.

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

SECTION 1. Section 8-13-5-4 of Title 8, Zoning Regulations, is amended as follows:

8-13-5-4: OIL AND GAS DRILLING FACILITIES/PRODUCTION:

All construction and development for energy production purposes on private lands in the A-2.5, R-1 and R-⁴/₂ zones County shall be carried out in accordance with the following standards and specifications. In the event of conflict between this section and the rules, orders and decisions of the Utah Division of Oil, Gas and Mining, the rules, orders and decisions of the Utah Division of Oil, Gas and Mining will control.

Notwithstanding the requirements of sections 8-13-2 and 8-13-3 of this title, the zoning administrator is given the authority to grant or deny conditional use permits for oil and gas drilling facilities/production in the A-2.5, R-1 and R ½ zones, after determining compliance or noncompliance with the provisions of this chapter. Such administrative decisions may be made after seven (7) days mailed notice to property owners within three hundred feet (300') of the boundaries of the subject property. Decisions of the zoning administrator made under this section may be appealed to the planning commission within ten (10) days of the date the decision is mailed. Decisions of the planning commission may be appealed as set forth in section 8-16-3 of this title.

A. Damage Minimized: Drilling and production facilities, including roadways, shall be constructed in a manner that minimizes damage to agricultural lands, irrigation systems, watersheds, vegetation and natural resources crops and surface improvements and minimizes dust and noise impacts to surface owners.

However, nothing in this subsection shall prohibit oil and gas drilling facilities/production, including roadways on such lands, provided that damages will be minimized by the terms of a surface use agreement to the satisfaction of entered into by the property owner voluntarily or after mediation as set forth in the Utah Surface Owner Protection Act. If a surface use agreement is not able to be reached or obtained from the property owner, the matter may be heard by the Utah division of oil, gas and mining on appeal.

B. Encroachment, Road Use Permit: For use of county roads, an encroachment permit <u>is</u>

<u>required for new road approaches to a county road or for excavations within the</u>

<u>road right of way.</u> or <u>A</u> road use permit may be required if it is determined by the

- public works director that energy production traffic will place an undue burden on the county road system and that upgrades or repairs are needed or seasonal load limits or compression brake limits must be imposed. If an encroachment or road use permit is required, a letter or copy of the permit with conditions for use, signed by the public works director, must accompany any application for a conditional use permit.
 - C. Facilities for Hazardous Materials: Location of any facilities for liquids, chemicals, explosives, flammable, hazardous or toxic materials shall be in compliance with all applicable federal and state laws and building codes (including the fire code). When oil and gas wells are located in an H²S area, H²S warning signs shall be located on the site at all times. Operators of well sites in areas where H2S gas is likely to be encountered shall provide occupants of buildings, located within 660 feet of the well head, with H²S gas safety information before drilling commences.
 - D. Well Site Engines: Well site engines shall be powered by electricity when located within six hundred sixty feet (660') of a dwelling, provided that the power company has adequate capacity to supply such power. Engines located at well sites not served by electricity shall be muffled to mitigate noise impacts.
 - E. Painting Well Production Facilities: Well production facilities, such as pumps, tanks, separators and appurtenances, shall be painted to blend with the surroundings, with the color choice to be made by the surface owner from the standard BLM color palette.
 - F. Distance From Dwellings: The well site (measured from the wellhead) shall be located at least six hundred sixty feet (660') from any existing primary or secondary dwelling (as defined in the county tax rolls) and a like distance from any building open to the public, unless the owner(s) of said dwelling(s) or building(s) consent in writing (in a surface use agreement or otherwise) to a lesser distance. Notwithstanding the foregoing and for the avoidance of doubt, said distance shall not apply to any current or pending oil and gas drilling facilities/production (already subject to an existing oil and gas lease or associated with an application for a permit to drill filed with the Utah division of oil, gas and mining). The provisions of this subsection apply only to oil and gas drilling facilities/production which are applied for and oil and gas leases granted after the effective date herein. In cases where the setback to an existing dwelling or building open to the public is less than three hundred feet (300'), such well pads shall be fenced with a six foot (6') tall fence and signed to discourage entry, unless the property owner consents in writing to waive the fencing requirement. In cases where surface uses consist of commercial or industrial businesses, recreation facilities, public uses or educational facilities, fencing requirements for well sites shall be addressed in a surface use agreement with the property owner.
 - G. Lighting: Well site lighting shall be installed with shielded fixtures so that light is directed toward the work area in accordance with safety standards but restricted from causing nuisance glare on nearby roads and agricultural-residential zones or on lands used for residential purposes.
 - G. State, Federal Permit: Before drilling, the applicant shall receive a verbal approval or written permit to drill from the Utah division of oil, gas and mining or other state or federal agency. Such authorization shall be provided to the county before drilling commences.
 - H. Dust Control: Operators of oil and gas drilling and production facilities shall have a master dust control plan approved by the TriCounty Health Department and shall implement such plan at each individual well site and along well access roads located in areas where sensitive dust receptors exist.
 - H. Plan For Reclamation: A reclamation plan shall be submitted to the Utah division of oil, gas and mining, when required by that agency, for each proposed well site, pipeline, excavation, roadway, and area of disturbance. Roadways may remain in place upon capping the wells.

116 117 118	I. Sanitary Facilities: Well sites, during the site preparation, drilling, completion and production phases, shall be served by sanitary facilities for employees, as approved by the sanitary sewer authority (TriCounty Health Department).									
119 120 121	J. Guarantee: A copy of the performance bond or other good and sufficient surety shall be submitted to the county, in an amount required by the Utah division of oil, gas and mining, pursuant to Utah administrative rules.									
122 123	J. Staking: All surface owners shall be notified in writing of well site, pipeline and access road survey staking operations prior to such staking taking place.									
124 125 126	SECTION 2. Section 8-6-1 of Title 8, Zoning Regulations, is amended as follows:									
127	8-6-1: TABLE OF USES:									
128 129	A. Scope: The table of uses identifies the uses allowed within each zoning district of the county.									
130 131 132 133 134	county general plan. The table of uses identifies uses allowed as a permitted use (identified as "P" in the table of uses) and uses allowed as a conditional use (identified as "CU" in the table of uses). Uses not identified as either a permitted or conditional use are									
135 136 137	C. Zoning Districts Described: A-10 Agricultural 10 acres minimum									
137 138 139	A-5 Agricultural 5 acres minimum									
140 141	A-2.5 Agricultural 2.5 acres minimum									
142	R-1 Residential 1 acre minimum									
143 144 145	R- ¹ / ₂ Residential ¹ / ₂ acre minimum									
146	C Commercial									
147 148 149	I Industrial									
150 151	TABLE OF USES									
	A- A-2.5 R-1 R-1/2 C I 5, A- 10									
	Accessory dwelling P P P CU X X									

	A- 5, A- 10	A-2.5	R-1	R-1/2	C	I
Accessory dwelling	P	P	P	CU	X	X
Agricultural experiment station/field station	P	P	P	X	P	X
Agricultural retail sales/products processing and storage	P	Р	CU	X	P	X
Airport	X	X	X	X	CU	P
Airstrip	CU	X	Х	X	CU	P
Assisted care center	CU	CU	CU	CU	P	X

Bakery	X	X	X	X	P	X
Bank	X	X	X	X	P	X
Bed and breakfast	CU	CU	CU	CU	P	X
Billboard	CU	X	X	X	P	P
Boarding house	CU	CU	CU	CU	P	X
Building material or garden store	CU	CU	CU	X	P	CU
Cabinet shop	X	CU	CU	X	P	P
Campground	CU	CU	CU	X	P	X
Car wash	X	CU	CU	X	P	P
Cemetery	P	X	X	X	P	P
Child daycare facility	P	P	P	P	P	X
Commercial uses	CU	CU	CU	CU	P	P
Composting facility	P	CU	X	X	P	P
Concentrated animal feeding operations (CAFO), provided they are a minimum of 10,000 feet from incorporated towns, platted subdivisions, public or private water wells, public springs, and public water intakes and 1,000 feet from property lines	CU	X	X	X	X	X
Contractor shop/office	CU	CU	CU	CU	P	P
Convenience store	X	CU	CU	CU	P	P
Distribution center	CU	CU	CU	X	P	P
Dwelling, multiple-family	CU	CU	CU	CU	CU	X
Dwelling unit: one-, two-, three- or four-family	P	P	P	P	P	X
Emergency care facilities	CU	CU	CU	X	P	P
Exotic animals	X	X	X	X	X	X
Farm	P	P	P	X	P	P
Fish farm	P	CU	X	X	P	X
Golf course	CU	CU	CU	X	P	X

Guest ranch	CU	CU	X	X	P	X
Home occupations (*see definition of "home occupation" in section 8-2-1 of this title for a list of home occupations permitted outright or conditionally in these zones)	P	P/CU*	P/CU*	P/CU*	P	P
Indoor recreation	CU	CU	CU	CU	P	CU
Junkyard	CU	X	X	X	CU	P
Kennel	P	CU	X	X	P	P
Labor camp	CU	CU	X	X	P	P
Landfill	X	X	X	X	X	P
Laundry, self-service	X	CU	CU	CU	P	P
Livestock auction facility	P	X	X	X	P	X
Major facility of a public utility/utility service facility	P	P	P	CU	P	P
Manufactured or mobile home park	CU	CU	CU	CU	CU	X
Meat or poultry processing facility	P	CU	X	X	P	P
Membership club	P	CU	CU	CU	P	P
Motel/hotel	X	CU	CU	CU	P	X
Nursery	P	P	P	X	P	P
Nursing home	X	CU	CU	CU	P	X
Oil and gas drilling facilities/production *See standards in Section 8-13-5-4	P <u>*</u>	CU <u>*</u>	CU <u>*</u>	CU <u>*</u>	P <u>*</u>	P <u>*</u>
Planned unit development (PUD)	P	P	P	X	P	X
Power plant	CU	CU	X	X	CU	P
Private club	X	X	X	X	P	x
Produced water disposal facility	CU	X	X	X	X	CL
Public/private educational facility, place of religious assembly (church), veterinary clinic and hospitals	P	P	P	P	P	P
Public uses	Р	P	P	P	P	P
Reception center	X	CU	CU	CU	P	X
Recreational vehicle park	CU	CU	CU	CU	CU	X

Recycling processing/collection facility	CU	CU	CU	CU	P	P
Residential facility for persons with a disability/elderly persons	P	P	P	P	P	X
Resort lodge	CU	CU	CU	CU	P	X
Resource family home	P	P	P	P	P	X
Restaurant	X	CU	CU	CU	P	P
Retail store	CU	CU	CU	CU	P	P
Sawmill	CU	X	X	X	P	P
Secure treatment facility	X	X	X	Х	CU	X
Sexually oriented business, provided they are a minimum of 1,000 feet from a place of religious assembly, public park or public or private school accredited by the state, public libraries, public buildings, and daycare centers	X	x	X	X	CU	CU
Surface or subsurface mining	CU	X	X	X	CU	CU
Telecommunications site/facility	P	P	P	P	P	P
Temporary use/stands for the retail sales of produce grown on the premises	P	P	CU	X	P	P
Unlicensed motor vehicle, as not herein defined as a "junkyard"	P	CU	CU	CU	P	P
Vehicle service center, sales, rental	CU	CU	CU	CU	P	P

SECTION 3. Severability.

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

SECTION 4. Effective Date. This ordinance shall become effective fifteen (15) days after publication.

DATED this day of, 2013.	
ATTEST:	DUCHESNE COUNTY BOARD OF COMMISSIONERS
Diane Freston County Clerk/Auditor	Kirk J. Wood, Chairman
	Ronald Winterton, Member
	Kent R Peatross Memher