ORDINANCE No. 21-385

AN ORDINANCE ADOPTING TITLE 6 CHAPTER 1 SECTION 8 & 9 OF THE DUCHESNE COUNTY CODE ESTABLISHING RULES AND REGULATIONS FOR IRRIGATION WATERS ON COUNTY ROADS

WHEREAS, Utah Code § 17-53-223 grants counties the power to enact ordinances that protect and improve the safety, health, peace, and good order of the county and its inhabitants, and for the protection of property in the county; and

WHEREAS, Utah Code §17-50-309 grants counties the authority to "enact ordinances and make regulations not in conflict with law for the control... and use of all public roads and highways in the county outside of cities and towns;" and

WHEREAS, Duchesne County's road infrastructure represents over a billion dollars of roadway inventory and investment to the taxpayers of the county; and

WHEREAS, irrigation water on county roads creates hazards to the traveling public and greatly enhances the deterioration of the roadways; and

WHEREAS, it has been proven throughout the US and other countries that water from irrigation contributes to moisture damage, it will decrease the strength and durability of asphalt mixtures. Water over time will break the bond of the asphalt binders and fine aggregates, and speeds up the deterioration of the roadway, causing stripping of the surface, rutting of the road and subsurface, and potholes; and

WHEREAS, Duchesne County annually spends hundreds of thousands of taxpayer dollars in maintenance and repairs of the roadway infrastructure, irrigation water unnecessarily adds more roads needing repairs and maintenance and causes roadway deterioration to be accelerates; and

WHEREAS, dry and undamaged roads improve the health and safety of the general public; and

WHEREAS, it is in the best interest of Duchesne County and its residents to establish clear and concise rules to prevent irrigation waters on all county Class B roads within Duchesne County,

THEREFORE, THE COUNTY LEGISLATIVE BODY OF DUCHESNE COUNTY ORDAINS AS FOLLOWS:

SECTION I. Title 6 Chapter 1 Section 8 and 9 shall be adopted into the Duchesne County Code to read as follows:

Chapter 6.01

COUNTY ROADS

Sections:

6-1-1:	**Purpose**
6-1-2:	**Roads, Rights of Way and Easements**
6-1-3:	**Gates and Cattle Guards**
6-1-4:	**Culverts**
6-1-5:	**Utility Easements**
6-1-6:	**Approaches to County Roads**
6-1-7:	**Application Process**
6-1-8:	**Irrigation Water on Public Roads**
6-1-9:	**Penalty**

6-1-8: Irrigation Water on Public Roads

A. Prohibition: No person, firm, or corporation shall operate any irrigation system or procedure, resulting in irrigation water sprinkling upon, running over, or within any portion of the maintained area of any County Class B public road in Duchesne County.

B. Maintained area defined: The term "maintained area" shall include that portion of the County Class B road currently occupied by the traveled way and its appurtenances. Appurtenances shall include road shoulders, roadside drainage ditches, road embankment slopes, and road cut slopes.

C. Exemption: It shall not be a violation of this chapter if the irrigation water sprinkling upon, running over, or within any portion of the road's maintained area is a result of the force of nature or events beyond the control of the irrigator.

6-1-9: Penalty

A violation of this chapter shall be considered an Infraction and subject to penalty as provided in section 1-4-1 of this code. Furthermore, the violator shall be responsible for any restitution for damages occurred as a result of the violator's acts. The amount of restitution shall be determined by the county attorney's office.

SECTION II. Effective Date.
This ordinance shall take effect, fifteen (15) days after enactment, and after depositing of a copy in the Clerk-Auditor's Office and publication in a newspaper having general circulation in the County, as required by Utah Code § 17-53-208.

Dated this 13th day of April, 2021.

ATTEST:

JoAnn Evans
County Clerk\Auditor

BOARD OF DUCHESNE
COUNTY COMMISSIONERS:

Greg Todd, Chairman

Irene Hansen, Member

Greg Miles, Member