

VIRGIN TOWN, UTAH

ORDINANCE 2024.XX

SUBDIVISIONS

AN ORDINANCE AMENDING AND RESTATING IN ITS ENTIRETY, CHAPTER 18 OF THE VIRGIN UNIFORM LAND USE CODE TO ESTABLISH SUBDIVISION REGULATIONS THAT MEET THE REQUIREMENTS ESTABLISHED BY UTAH STATE CODE.

RECITALS

WHEREAS, pursuant to Utah Code Ann. § 10-1-201 Virgin Town (“the Town”) is a Utah municipal corporations and political subdivision of the State of Utah;

WHEREAS, pursuant to Utah Code Ann. § 10-3b-401 the Virgin Town Council (“the Town Council”) is the legislative and governing body of the Town;

WHEREAS, pursuant to Utah Code Ann. § 10-9a-103(31) the Town Council, in addition to being the legislative and governing body of the Town, is also the Land Use Authority vested with the power to enact all Land Use Regulations and make all Land Use Decisions within the Town unless the latter administrative power is delegated to another body or person;

ORDINANCE

NOW THEREFORE, be it ordained by the Council of Virgin Town, in the State of Utah, as follows:

SECTION 1: AMENDMENT AND RESTATEMENT OF CHAPTER 18 OF THE VIRGIN UNIFORM LAND USE CODE. “Chapter 18 Subdivisions” of the Virgin Uniform Land Use code (VULU) is hereby amended and restated in its entirety as follows:

CHAPTER 18 SUBDIVISIONS

18.02 GENERAL PROVISIONS

18.04 DEFINITIONS (See VULU Chapter 2)

18.06 BOUNDARY LINE ADJUSTMENT/SUBDIVISION WAIVERS

18.08 PRE-APPLICATION PROCESS

18.10 PRELIMINARY PLAT

18.12 FINAL PLAT

18.14 REQUIREMENTS FOR DESIGN AND IMPROVEMENTS

18.16 OWNERSHIP AND MAINTENANCE OF OPEN SPACE AND COMMON FACILITIES

18.18 FINANCIAL RESPONSIBILITY FOR ALL SUBDIVISIONS

18.02 GENERAL PROVISIONS:

- A. TITLE: These regulations shall officially be known, cited, and referred to as the Subdivision Ordinance of Virgin Town, Utah.

B. STATUATORY AUTHORIZATION: This ordinance is adopted pursuant to the authority granted by the State of Utah.

C. JURISDICTION: Jurisdiction of this ordinance shall include all lands within the extraterritorial jurisdiction of the Town, and within the corporate limits of the Town.

D. PURPOSES: This purpose of this ordinance is to accomplish the following:

1. To adopt subdivision regulations for the divisions of land within the Town of Virgin.
2. To guide the future growth and development of the community consistent with Virgin Town Standards and the General Plan.
3. To encourage preservation of open space, scenic views, sensitive natural resources, significant archaeological sites, and historic buildings.
4. To provide for a diversity of lot sizes, housing choices, and building densities.
5. To provide buffering between new development and existing uses.
6. To preserve natural drainage systems and ensure adequate present and future rain and flood water drainage.
7. To protect the purity of waterways and watersheds, and
8. To promote the development of a connective trail system throughout the Town and the region.

E. WATER AVAILABILITY: Municipal water availability must be established prior to the creation of any new buildable lot.

F. APPLICABILITY AND COMPLIANCE: Subdivision standards set forth in this chapter do not necessarily apply to partitions, joinders, adjustments and divisions that do not qualify as subdivisions under Utah Code and the Virgin Uniform Land Use ordinance (VULU).

1. The standards of this ordinance apply to all subdivisions. All subdivisions shall be consistent with all applicable zoning ordinances for the parent parcel.
2. The overall development density for the parent parcel is the same as would be allowed in the existing zone except for those conservation subdivisions which qualify for a development bonus under VULU Chapter 18.12 D.
3. It shall be unlawful for any person to offer to sell or lease, to contract to sell or lease, or to sell or lease any such division of land, or any part thereof, which is located in the Town, until the provisions of this ordinance, as they apply to the property in question, have been met.

4. No person shall divide any land under the provisions of this ordinance without compliance with all requirements of this ordinance and all applicable local, county, state and federal ordinances.

G. ABROGATION AND GREATER RESTRICTIONS:

1. PUBLIC PROVISIONS: These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these regulations
 - a. If there is any conflict in content or interpretation, the greater requirement shall prevail.
2. PRIVATE PROVISIONS: These regulations are not intended to abrogate any easement, covenant, or any other private agreement or restriction, provided that, where the provisions of these regulations are more restrictive than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern.
 - a. Where the provisions of the easement, covenant, or private agreement impose duties and obligations more restrictive than these regulations, and the private provisions are not inconsistent with these regulations, then the private provisions shall be operative and supplemental to these regulations and the determinations made under the regulations.

H. SEPARABILITY: If any part or provision of these regulations or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgement shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgement shall be rendered. It shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The Virgin Town Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

I. ENFORCEMENT, VIOLATION, PENALTIES:

1. VIOLATIONS:
 - a. It shall be unlawful to build upon, divide, convey, record, or monument any land in violation of this ordinance or state law, and no person shall be issued a building permit until the requirements of this chapter have been fully met, including completion of all infrastructure work to the satisfaction of the DRC.

2. PENALTIES: Penalties for violation of this ordinance shall be as follows:

- a. Any person who fails to comply with this chapter shall, upon conviction, be subject to the penalties as provided by the Town.

J. APPEALS: (See VULU Chapter 6)

K. FEES: The Virgin Town Council may, by resolution, establish reasonable fees for the administration of this ordinance. The subdivider shall reimburse the Town for all professional advisors consulted by the Town in consideration of the project, including engineers, attorney's, planners, and other experts.

18.04 DEFINITIONS:

A. "Administrative Land Use Authority" means:

1. An individual, board, or commission, appointed or employed by a municipality, including municipal staff or a municipal planning commission.
2. "Administrative Land Use Authority" does not include a municipal legislative body or a member of a municipal legislative body.

B. "Subdivision" includes:

1. The division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot;
2. Except as provided in Utah State Code 10-9a-102, Section (68)(c) divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

C. "Subdivision" does not include:

1. a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance.
2. A boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 10-9a-524 if no new parcel is created.
3. A recorded document, executed by the owner of record:
 - a. Revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or
 - b. Joining a lot to a parcel.

4. A boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:
 - a. No new dwelling lot or housing unit will result from the adjustment; and
 - b. The adjustment will not violate any applicable land use ordinance.
 5. A bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:
 - a. Is in anticipation of future land use approvals on the parcel or parcels.
 - b. Does not confer any land use approvals; and
 - c. has not been approved by the land use authority.
 6. A parcel boundary adjustment.
 7. A lot line adjustment.
 8. A road, street, or highway dedication plat.
 9. A deed or easement for a road, street, or highway purpose; or
 10. Any other division of land authorized by law.
- D. "Subdivision Improvement Plans" means the civil engineering plans associated with required infrastructure and municipally controlled utilities required for a subdivision.

18.06 BOUNDARY LINE ADJUSTMENT/SUBDIVISION WAIVERS:

A. BOUNDARY ADJUSTMENT REVIEW PROCESS:

1. Any adjustment to a boundary between two parcels which does not qualify as a subdivision shall be reviewed by the Virgin Town Zoning Administrator for compliance with VULU ordinances and approved or denied by the Planning Commission. Any boundary line adjustment shall comply with 10-9a-523 and 10-9a-524 of Utah State Code. Where State Code prohibits review by a land use authority, the boundary adjustment shall be reviewed by the Zoning Administrator.
2. Application for a boundary adjustment that needs to come before the Land Use Authority shall be submitted at least ten (10) days prior to a regular Planning Commission meeting at which it may be heard, and accompanied by a concept plan which includes:
 - a. Parcel sizes,
 - b. Current ownership of each parcel and all contiguous parcels,
 - c. Current zoning of each parcel and all contiguous parcels,
 - d. Any agreement to be recorded.

B. SUBDIVISION WAIVER PROCESS.

1. A subdivision waiver application shall require a concept plan for review by the Fire District, Town Engineer, and the Town Attorney. The concept plan shall include:
 - a. Parcel and new lot sizes,
 - b. Current ownership of each parcel and all contiguous parcels,
 - c. Current zoning,
 - d. Any agreement to be recorded,
 - e. Any variances required,
 - f. Anything suggested during the initial review stage to help clarify the need for a subdivision waiver to the Land Use Authority.
2. The Planning Commission may recommend, and the Town Council may waive the requirements for preparation and approval of preliminary and final plats at a public meeting if it can be shown that:
 - a. The municipality has provided proper notice of the public hearing as required in State law; See 18.08 A,1 Public Hearing requirements below.
 - b. The proposed subdivision meets the definition of Subdivision Plat Waiver as seen in 18.04 C.
 - c. All private streets shall comply with adopted Fire Codes; and
 - d. Each of the lots meets the frontage, width, and area requirements of the zone in which it is located or must have been granted a variance from such requirements by the appeal authority.
3. The Land Use Authority may require as part of the approval any improvements and/or public facility and/or utility easements that are required to ensure the new development complies with Town standards.
4. Upon approval of a subdivision waiver, the Land Use Authority shall certify in writing that the requirements listed in this section have been met, and that the municipality has provided notice as required by law.

18.08 PRE-APPLICATION PROCESS:

A. Pre-Application Process:

1. All proposed subdivisions shall meet the application and review requirements outlined in Utah State Code 10-9a-601, et seq, as amended, this chapter, and the requirements for the respective zone in which the subdivision is proposed.

2. An applicant for a subdivision may request a pre-application meeting with staff. With regard to a pre-application meeting, the following shall apply:
 - a. The applicant shall submit a concept plan for staff review.
 - b. The municipality shall, within fifteen (15) business days after the request, schedule the meeting to review the concept plan and give initial feedback.
 - c. At the pre-application meeting, the Town shall provide or have made available on the municipal website the following:
 - i. Copies of the applicable land use regulations.
 - ii. A complete list of standards required for the project.
 - iii. Preliminary and Final Plat checklists.
 - iv. Feedback on the concept plan.
 - d. Pre-application review of a concept plan does not create any vested rights and feedback on the concept plan does not grant or infer any official standing or approval. The applicant is responsible for adhering to the ordinance.
3. The Concept Plan shall be consistent with the Subdivision Submittal Checklist maintained by the Town.

18.10 PRELIMINARY PLAT:

- A. Review Process: Any division of land, unless otherwise exempted in this Title, requires completion of a Preliminary and Final Plat. The following outlines the review process, as intended by Utah State Code 10-9a-604, as amended. If there is any conflict in content or interpretation, state code shall prevail.
 1. If the application requires legislative approvals, such as a zone change, annexation, general plan amendment, right of way or easement vacation, or any other legislative action, the legislative approval shall be completed prior to submittal of the Preliminary Plat application.
 2. The applicant may request a pre-application meeting with a Town representative to discuss the proposal and submittal requirements. If requested, the Town and applicant shall follow the process outlined in 18.06 (A) of this Title.
 3. The Town shall provide or have available on the Town website, each of the following:
 - a. The Preliminary Plat application.
 - b. The owner's affidavit.
 - c. A breakdown of application fees.

- d. A copy of the applicable land use ordinance.
 - e. A complete list of standards required for the project.
 - f. Preliminary Plat drawings checklist.
4. An applicant shall submit an application, including the Preliminary Plat, Subdivision Improvement Plans, and all required documentation and information.
5. The Town checks the submittal for completeness.
- a. If the submittal includes all materials, the Town receives the submittal and starts the review cycle.
 - b. If the submittal is found to be incomplete, the submittal is returned to the applicant. No review shall commence until the Town has made a determination that the application is complete.
6. If the location is within one hundred (100) feet of a water conveyance facility, within twenty (20) calendar days after receipt of the completed application, the Town shall notify in writing the Water Conveyance Facility Owner(s) of the Application and request comments related to the following aspects of the water conveyance facility: access, maintenance, protection, safety, and any other issues related.
- a. Any Water Conveyance Facility shall have at least twenty (20) days to respond. While the Town may provide comments to the applicant before this twenty (20) day window is complete, the Administrative Land Use Authority shall not grant approval until after at least twenty (20) days after the day on which the town mailed notice to the Water Conveyance Facility.
 - b. Water Conveyance Facility: Shall mean a ditch, canal, flume, pipeline, or other watercourse used to convey water used for irrigation or storm water drainage and any related easement for the ditch, canal, flume, pipeline, or other watercourse. See State Code 73-1-15.5-1b.
7. Within forty (40) days the town shall complete a review of the Preliminary Plat and Subdivision Improvement Plan, except as follows:
- a. The review cycle dates restrictions and requirements do not apply to the review of subdivision applications affecting property within identified geological hazard areas.
 - b. The review cycle number of days only applies to single family, two family, and townhome developments. It does not

apply to other land uses, such as commercial, industrial, or mixed use.

8. After review, the Town will determine if the completed application meets all requirements or requires corrective actions and shall notify the applicant in a written response:
 - a. If the application is found to require corrections, the Town must be specific and cite the ordinance, statute, or specifications that require the modification. Comments shall be logged in an index of requested modifications or additions. The required corrections are sent to the applicant to prepare a resubmittal.
 - b. The Town may require additional information relating to the applicant's plans to ensure compliance with municipal ordinances and approved standards and specification for construction of public improvements.
 - c. If the applicant is found to meet all codes, standards, and specifications, the application is forwarded to the Administrative Land Use Authority for review and approval.
9. After receiving the list of required modification or additions, the applicant's resubmittal shall include a written explanation in response to each of the municipality's review comments, identifying and explaining the applicant's revisions or reasons for declining to make the revisions.
10. The Town shall review the resubmittal to ensure that the applicant has responded to each item logged in the index of requested modification or additions. If the response does not address each item, the Town shall return the submittal to the applicant.
 - a. If the resubmittal is complete, the Town shall accept the application for a second review cycle. The time frame to complete the review depends on how quickly the applicant was able to respond to the corrections in full and if the applicant made any material changes.
 - i. If the applicant responded within forty (40) days, the Town has forty (40) days to complete the second review cycle.
 - ii. If the applicant responded after forty (40) days, the Town has sixty (60) days to complete the second review cycle.
 - iii. If the applicant made a material change that merits a new review, then the review shall restart at the first review cycle as it relates to the new material.

- b. The review cycle number of days only applies to single family, two family, and townhome developments. It does not apply to other land uses, such as commercial, industrial, or mixed use.
 - 11. If the Town neglects to include a required change or correction in the initial review process, the modification or correction can only be imposed on subsequent reviews if it is necessary to protect public health and safety or to enforce state or federal law.
 - 12. If the Town determines that the resubmittal is now complete and meets all codes, standards, and specifications, the resubmittal shall be forwarded to the Administrative Land Use Authority to complete the review.
 - a. If the Town finds the resubmittal does not comply with all applicable codes, standards, and specifications, another review letter and index of requested modifications or additions shall be created and sent to the applicant. This shall be provided to the applicant up until the fourth review cycle, at which point the application shall be forwarded on to the Administrative Land Use Authority for review with a recommendation that the application does not meet all codes, standards, and specifications. The applicant may appeal this determination as outlined in Utah Code 10-9a-604.2(11), as amended.
 - 13. If, on the fourth and final review, the Town fails to respond within forty (40) business days, the Town shall, upon request of the property owner, and within ten (10) business days after the day on which the request is received:
 - a. For a dispute arising from the subdivision improvement plans, assemble an appeal panel in accordance with Utah Code 10-9a-508(5)(d) to review and approve or deny the final revised set of plans; or
 - b. For a dispute arising from the subdivision ordinance review, advise the applicant, in writing, of the deficiency in the application and of the right to appeal the determination to a designated appeal authority.
 - i. The appeal authority shall be the Town Council.
- B. APPROVAL PROCESS. After review, the application shall be submitted to the Administrative Land Use Authority for approval.
- 1. For Preliminary Plat and Subdivision Improvement Plans, the Administrative Land Use Authority shall be the Planning Commission.

- a. Any contingent legislative approval, such as a zone change, overlay zone, general plan amendment, annexation, right of way vacation, or other similar approval, shall occur at the Town Council prior to the submittal of a Preliminary Plat Application.
 2. The Planning Commission shall hold a public hearing. A public notice shall be sent to all owners of the property within three hundred (300) feet of the subdivision.
 3. If the Planning Commission finds that the application complies with the applicable municipal ordinance and the requirements of Utah State Code, the Planning Commission shall approve the Preliminary Plat application.
 - a. The Planning Commission shall remand the application back to the applicant for corrections if it finds:
 - i. The applicant has not completed all requirements as outlined in the review index, or
 - ii. The application does not address all requirements in state code, and although the item was not addressed in the first review, the requirement relates directly to public health and safety.
 - b. The Planning Commission shall deny the application if the applicant is unwilling to make required corrections or provide required information.
 4. In instances where a developer abandons or otherwise fails to take timely actions to address corrections or complete a project, the application approval shall lapse.
 - a. A Preliminary Plat application expires if it is not approved by the Town within six (6) months from the time its application is submitted and accepted.

A six (6) month extension may be approved by the Administrative Land Use Authority if requested prior to the expiration of the Preliminary plat application.
 - b. Approval of the Preliminary Plat by the town shall be valid for a period of one (1) year after approval.
- C. PRELIMINARY PLAT SUBMISSION REQUIREMENTS: The Preliminary Plat shall be prepared by a licensed land surveyor or engineer, shall include the Subdivision Improvement Plans, and shall be consistent with the Subdivision Submittal Checklist maintained by the Town.

18.12 FINAL PLAT:

- A. Within one (1) year of approval of a Preliminary Plat, a Final Plat prepared by a licensed surveyor not employed by the Town shall be submitted in conformance with this Chapter. If a complete application is not submitted within one (1) year of Preliminary Plat approval, the approval is deemed to have expired.
- B. REVIEW. The following outlines the review process, as intended by Utah State Code 10-9a-604, as amended. If there is any conflict in content or interpretation, state code shall prevail.
1. An applicant may request a pre-application meeting. If so, the Town and the applicant follow the provisions of 18.06 (A) before proceeding to the next step.
 2. The Town shall maintain and publish a list of items comprising a complete Final Plat application, including:
 - a. The application.
 - b. The owner's affidavit.
 - c. An electronic copy of all plans in PDF format.
 - d. The breakdown of fees due upon approval of the application.
 3. The applicant submits a complete application, including the Final Plat and all required documentation and information.
 4. The Town checks the submittal for completeness.
 - a. If the submittal includes all materials, the Town receives the submittal and starts the review.
 - b. If the submittal is incomplete, the submittal is returned to the applicant. No review of the application shall occur until the Town has determined that the applicant has submitted a complete application.
 5. After a determination that the application submittal is complete the Town begins its review. The Town has a thirty (30) day review window to conduct its review and provide comments to the applicant.
 - a. The review period of thirty (30) days only applies to single-family, two-family, and townhome developments.
 6. If the location is within one hundred (100) feet of a water conveyance facility, within twenty (20) calendar days after receipt of the completed application, the Town shall notify in writing the Water conveyance Facility Owner(s) of the Application and request comments related to the following aspects of the water conveyance facility: access, maintenance, protection, safety, and any other issues related.

- a. Any Water Conveyance Facility shall have at least twenty (20) days to respond. While the Town may provide comments to the applicant before this twenty (20) day window is complete, the Administrative Land Use Authority shall not grant approval until after at least twenty (20) days after the day on which the Town mailed notice to the Water Conveyance Facility.
 - b. Water Conveyance Facility: Shall mean a ditch, canal, flume, pipeline, or other watercourse used to convey water used for irrigation or storm water drainage and any related easement for the ditch, canal, flume, pipeline, or other watercourse. See State Code 73-1-15.5-1b.
7. During review, the Town Attorney shall review the Final Plat and shall recommend approval if the attorney finds that:
- a. There is a current title opinion from a licensed title company showing that the person dedicating the property described on the Final Plat is the title owner as shown on the recorded of the Washington County Recorders' Office.
 - b. The performance bond, escrow deposit, letter of credit, or trust deed with the Town is in appropriate form and signed by the necessary parties.
 - c. That the subdivider has executed the subdivision improvements agreement required by this Ordinance and Town policies.
 - d. That the subdivision does not, in the attorney's opinion, violate any ordinance of the Town or the laws of the State of Utah of the rules and regulations promulgated pursuant thereto.
8. Within the review window of subsection (e), the Town shall complete a review of the Final Plat and submittal contents and provide a response to the applicant. The Town shall determine whether the application meets all requirements or requires corrective actions and shall notify the applicant in a written response:
- a. If the application is found to require corrections, the Town must be specific and cite the ordinance, statute, or specifications that require the modification. Comments shall be logged in an index of requested modifications or additions. The required corrections are sent to the applicant to prepare a resubmittal.
 - b. The Town may require additional information relating to an applicant's plans to ensure compliance with municipal ordinances and approved standards.

- c. If the applicant is found to meet all codes, standards, and specifications, the application is forwarded to the Administrative Land Use Authority for review and approval.
- 9. If corrections were required, the applicant shall provide a resubmittal. The resubmittal shall include a written explanation in response to each of the municipality's review comments, identifying and explaining the applicant's revisions or reasons for declining to make a requested revision.
- 10. The Town shall check the resubmittal to ensure that the applicant has responded to each item logged in the index of requested modification or additions. If the response does not address each item, the Town shall return the submittal to the applicant.
 - a. If the resubmittal is complete, the Town shall review the application and provide written comments within the applicable review window, as outlined in subsection (e).
 - b. The review window number of days only applies to single family, two family, and townhome developments. It does not apply to other land uses, such as commercial, industrial, or mixed use, nor does it apply to any legislative approval.
- 11. If the Town determines that the resubmittal is now complete and meets all codes, standards, and specifications, the resubmittal shall be forwarded to the Administrative Land Use Authority for review and approval.
 - a. If the Town finds the resubmittal does not comply with all applicable codes, standards, and specifications, another review letter and index of requested modifications or additions shall be created and sent to the applicant. This shall be provided to the applicant up until the fourth review cycle, at which point the application shall be forwarded on to the Administrative Land Use Authority for review with a recommendation that the application does not meet all codes, standards, and specifications. The applicant may appeal this determination as outlined in Utah Code 10-9a-604.2(8), as amended.
- 12. If, on the fourth and final review, the Town fails to respond within forty (40) business days, the Town shall, upon request of the property owner, and within ten (10) business days after the day on which the request is received:
 - a. The Town shall advise the applicant, in writing, of the deficiency in the application and the right to appeal the determination to a designated appeal authority.
 - i. The appeal authority shall be the Town Council.

- C. FINAL PLAT SUBMITTAL REQUIREMENTS: A Final Plat prepared by a registered land surveyor shall be required for all subdivisions and shall be consistent with the Subdivision Submittal Checklist maintained by the Town.
- D. ACCEPTANCE OF STREETS AND OTHER PUBLIC LAND DEDICATION. Acceptance of dedication of proposed public lands or streets or street right-of way in an approved plat can be made only by signature of the mayor. Plat approval will be deemed as acceptance of dedication unless streets and other public spaces are shown as "not intended for dedication" in the case of a Planned Development or condominium.
- E. SURVEY CERTIFICATION. The surveyor making a plat shall certify on the plat that it conforms to these survey regulations and to all applicable state laws. The certification shall include the surveyor's name and seal.
- F. COMPLETING A FINAL PLAT APPLICATION REVIEW. After the review cycle process has been completed, the application shall be submitted to the Administrative Land Use Authority for approval.
1. For Final Plat approval, the [the Town Council suggests either the Town Engineer or the DRC]
 - a. No public hearing may be held for the subdivision Final Plat approval.
 2. The Administrative Land Use Authority shall approve the Final Plat if it finds:
 - a. The proposed plat complies with the requirements of Town Code, Utah State Code, and all other applicable policies and regulations.
 - b. The plat has been approved by the culinary water authority.
 - c. The plat has been approved by the sanitary sewer authority, and
 - d. If applicable, the plat has been approved by the health department.
 3. The Administrative Land Use Authority may deny or remand the proposed Final Plat if:
 - a. The Administrative Land Use Authority finds the applicant has not provided a complete, accurate, and satisfactory response to all comments during review and any other point of non-compliance with applicable regulations.
 - b. The applicant is unwilling to make required corrections or provide required information.
 4. Any appeal shall be consistent with the provisions of Utah Code 10-9a-604.2.

G. RECORDING A FINAL PLAT.

1. Once all requirements have been met, and the Administrative Land Use Authority has approved the Final Plat, the applicant shall submit a twenty-four by thirty-six-inch (24" x 36") mylar drawing of the corrected final subdivision plat with:
 - a. The signatures of each owner of land are described on the plat.
 - b. The surveyor certification, as described in Utah Code 10-9a-603(6).
 - c. An opportunity provided to each utility provider to sign the plat.
2. Before the Final Plat can be recorded at the Office of the Washington County Recorder, the following shall occur:
 - a. The Town shall review mylar for completeness and consistency with approved plat.
 - b. The Town shall collect all required signatures of staff and the County Health Dept, if applicable.
 - c. The Developer shall complete the required public improvements or provide a security bond for improvements as determined by the Town Engineer and approved by the Town Attorney. The security bond shall be properly posted with the Town unless improvements are already completed and accepted.
 - d. The Developer shall provide signed and notarized covenants, conditions and restrictions (CC&R's) for the subdivision, if applicable.
 - e. The Developer shall provide a signed and notarized development agreement, if applicable.
 - f. The Developer shall provide signed and notarized deeds and agreements for any easement, if applicable.
 - g. The Developer shall provide the recordation fee, made in favor of the Office of the Washington County Recorder.
 - h. The Developer shall provide all required impact fees and any other fees required to be paid to the Town.
3. Once all the above actions have occurred, the Town Recorder or his/her designee shall record the final subdivision plat at the Office of the Washington County Recorder. In no instance shall a fully executed Final Plat be released to an applicant or property owner for recording on their own.

4. Within thirty (30) days after approving a Final Plat, the Town shall submit to the Geospatial Resource Center (UGRC) for inclusion in the unified statewide 911 emergency database. This shall include:
 - a. An electronic copy of the approved Final Plat, or
 - b. Preliminary geospatial data that depicts any new streets and situs addresses proposed for construction within the bounds of the approved plat.

18.14 REQUIREMENTS FOR DESIGN AND IMPROVEMENTS:

1. LAND SUITABILITY. No land shall be developed which is held to be unsuitable for any proposed use if identified as being environmentally sensitive. Areas identified as being environmentally sensitive include, but are not limited to:
 1. All areas mapped as floodplain by the Federal Emergency Management Agency (FEMA), Utah Department of Natural Resources, or other public or private entity, and deemed unsuitable for the proposed development under the Flood Damage Prevention sections of Virgin Town ordinances (See VULU chapter 22).
 2. All wetlands as defined in federal and Utah State code.
 3. All areas having slopes greater than thirty percent (30%).
 4. Areas that are proven to provide habitat for rare, threatened or endangered species, unless species have been removed by certified experts under procedures approved by all authorized entities.
 5. Burial sites and Indian mounds.
 6. Drainage ways that contain running water during spring runoff or during storm events as well as any State or Federal required buffers from the edges of the drainage way.
 7. Areas determined to be environmentally sensitive may be included as common open space in a subdivision but shall be included in the development Yield Analysis in VULU Chapter 18.12 B. These lands shall be identified as an out-lot or other designation that indicates the land is not available for development.
2. DEVELOPMENT YIELD. The number of residential units for a parcel shall be determined in accordance with the following:
 1. Base development yield is one (1) dwelling unit per acre;
 2. The base development yield may be increased if the parcel complies with one or more of the following standards. Each standard provides a development yield bonus of five percent (5%) in addition to the base development yield. The maximum bonus permitted is twenty percent (20%).

1. Provides open space that greater than 25% of parcel.
2. Providing for access by the general public to trails, parks, or other recreational facilities, excluding golf courses;
3. Reusing historical buildings and structures, including those sites inventoried by the State Historical Society of Utah. The U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Properties shall apply.
4. Implementing approved professional grazing management plan on open space designed to maintain natural vegetation while reducing noxious plant populations.
5. Maintaining an approved agricultural use under a permanent approved professional management plan on open space.
6. Implementing approved permanent, enforceable policies of strict xeriscaping and water conservation throughout the development.
7. Implementing innovative low impact wastewater treatment (requires Town-approved professional plan and specs).
8. Implementing trails improved and connected as preferred by Town.

3. GENERAL PERFORMANCE STANDARDS

1. Stormwater Management.
2. The development should capture 80% of the sediments/pollutants from the one (1) year storm event.
3. Natural open drainage systems (i.e., washes and dry river beds) should be used or bypassed as recommended by the Town Engineer.

4. OPEN SPACE DESIGN.

1. The uses within the open space shall be accessible to the residents of the development. These uses may also be available to the general public providing the proper approvals are received. Open space shall not be part of individual residential lots. Open space shall be undivided and restricted in perpetuity from future development.
2. The following areas or structures may be located within the open space area and shall be counted toward the overall open space percentage required:
 1. Parking areas for access to and use of the open space developed at a scale limited to the potential users of the open space,
 2. Privately-held buildings or structures provided they are accessory to the use of the open space.

3. Shared septic systems and shared potable water systems.
 4. Road rights of way shall be counted towards the required minimum open space.
 5. A pathway system connecting open space areas accessible to neighborhood residents and connecting these areas to neighborhood streets and to planned or developed trails on adjacent parcels shall be identified in the plan.
3. Sewage and Water Facilities. Water for a subdivision shall be provided by approved hookups to Virgin Town water supply. All subdivisions shall be provided with adequate waste water treatment systems, either separate, shared, or community, as determined by the Land Use Authority and approved by the Utah State Health Department or Division of Environmental Quality, as applicable, which is the Sanitary Sewer Authority. Where sewage treatment is not provided by a publicly owned wastewater treatment works, a common sewage treatment and disposal unit located on the common open space lands is encouraged.
 4. Financial Guarantee. A financial guarantee ensuring the construction and completion of the common facilities shall be submitted to the Town Clerk.

18.16 OWNERSHIP AND MAINTENANCE OF OPEN SPACE AND COMMON FACILITIES:

1. ALTERNATIVES. The designated common open space and common facilities may be owned and managed by one or a combination of the following:
 1. A homeowners' association;
 2. a condominium association established in accordance with the laws of the State of Utah;
 3. a nonprofit conservation organization;
 4. the Town of Virgin or another governmental body empowered to hold an interest in real property; or
 5. an individual who will use the land for open space purposes as provided by a conservation easement.
2. HOMEOWNERS' ASSOCIATION.
 1. A homeowners association shall be established if the common open space is proposed to be owned by a homeowners association.
 2. Membership in the association is mandatory for all purchasers of homes in the development and their successors. The homeowners' association bylaws, guaranteeing continuing maintenance of the open space and other common facilities, and the declaration of

covenants, conditions and restrictions of the homeowners association shall be submitted for approval to the Town as part of the information required for the preliminary plat. The homeowners' association bylaws or the declaration of covenants, conditions and restrictions of the homeowners association shall contain the following:

1. The legal description of the common land;
 2. a description of common facilities;
 3. the restrictions placed upon the use and enjoyment of the lands or facilities;
 4. persons or entities entitled to enforce the restrictions;
 5. a mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes and insurance premiums;
 6. a mechanism for resolving disputes among the owners or association members;
 7. the conditions and timing of the transfer of ownership and control of land facilities to the association;
 8. language requiring that any termination of or amendment to the homeowners' association bylaws, or to the declaration of covenants, conditions and restrictions of the homeowners association, will not take effect unless approved by the Virgin Land Use Authority; and
 9. any other matter the developer deems appropriate.
3. CONDOMINIUM ASSOCIATIONS. If the common open space and facilities is to be held under the Condominium Ownership Act, the condominium instruments shall identify the restrictions placed upon the use and enjoyment of the common open space. All common open space shall be held as a "common element".
4. A NONPROFIT CONSERVATION ORGANIZATION. If the common open space is to be held by a nonprofit conservation organization, the organization must be acceptable to the Town of Virgin. The conveyance to the nonprofit conservation organization must contain appropriate provisions for reversion in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance.
5. PUBLIC DEDICATION OF OPEN SPACE AND STREETS. The Town of Virgin may accept the dedication of fee title or dedication of a conservation easement to the common open space. The Town may accept the common open space provided:
1. The common open space is accessible to the residents of the Town of Virgin.

2. The Town of Virgin agrees to and has access to maintain the common open space.
3. Streets or other public ways which have been designated on a duly adopted official map or element of the Virgin Town General Plan shall be dedicated or reserved by the sub divider to the Town of Virgin. The street or public way shall be made a part of the plat in the locations and dimensions indicated in the comprehensive plan and as set forth in this ordinance.
6. **INDIVIDUAL OWNERSHIP.** An individual may hold fee title to the land while a nonprofit or other qualified organization holds a conservation easement uses for the common open space.
7. **MAINTENANCE PLAN.** Subdivisions with proposed open space must include a plan that provides evidence of a means to properly manage the common open space in perpetuity and evidence of the long-term means to properly manage and maintain all common facilities, including any storm water facilities.
 1. The plan shall be approved by the Virgin Town Council prior to final plat approval. Any future amendments to the plan must be approved by the Virgin Land Use Authority. The plan shall do the following:
 1. designate the ownership of the open space and common facilities in accordance with Chapter 18.14;
 2. establish necessary regular and periodic operation and maintenance responsibilities;
 3. estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an ongoing basis; and
 4. include a land stewardship plan specifically focusing on the long-term management of Common Open Space lands. The land stewardship plan shall include a narrative, based on the site analysis required in Chapter 18.12, describing:
 1. Existing conditions including all natural, cultural, historic, and scenic elements in the landscape;
 2. the proposed end state for each common open space area; and the measures proposed for achieving the end state;
 3. proposed restoration measures, including measures for correcting increasingly destructive conditions, such as erosion or noxious weeds; and measures for restoring historic features and habitats or ecosystems; and

4. the operations needed for maintaining the stability of the resources, including: mowing schedules; weed control; planting schedules; clearing and cleanup.
 1. At Virgin Town's discretion, the applicant may be required to place in trust sufficient funds to provide maintenance and operation of common facilities in perpetuity.
2. In the event that the organization established to own and maintain the open space and common facilities, or any successor organization, fails to maintain all or any portion of the common facilities in reasonable order and condition upon the residents and owners of the open space and common facilities, setting forth the manner in which the organization has failed to maintain the common facilities in reasonable condition.
 1. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made.
 2. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this ordinance, in which case the bond, if any, may be forfeited, and any permits may be revoked or suspended.
 1. The Town of Virgin may enter the premises and take corrective action.
 2. The costs of corrective action by the Virgin Town Council shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the common facilities and shall become a lien on said properties.
 3. The Town of Virgin, at the time of entering upon such common facilities for the purpose of maintenance, shall file a notice of such lien in the office of the County Register of Deeds upon the properties affected by such lien.
3. Management plans can be amended by the owner identified under Chapter 18.14 A with the approval of the Virgin Town Council.

18.18 FINANCIAL RESPONSIBILITY FOR ALL SUBDIVISIONS:

1. **GUARANTEE.** The subdivider shall warrant and guarantee that the improvements provided for herein, and every part thereof, will remain in good condition for a period of two (2) years after the date of conditional acceptance by the Town Council, and agree to make all repairs to and maintain the improvements and every part thereof in good condition during the two (2) year period at no cost to the Town.

1. It is further agreed and understood that identifying the necessity for repairs and maintenance of the work rests with the Town Engineer, whose decision upon the matter shall be final and binding upon the subdivider, and the guarantee hereby stipulated shall extend to and include, but shall not be limited to, the entire street, subgrade, base, surface, all pipes, joints, valves, backfill and compaction, the working surface, curbs, gutters, sidewalks, and the other accessories that are or may be affected by the construction operations.
 1. Whenever, in the judgment of the Town Engineer, said work shall be in need of repairs, maintenance, rebuilding, the subdivider shall be notified in writing.
 2. If the work described in the notice is not completed within thirty (30) calendar days from the date of notice, the Town shall have such repairs made, and the cost, plus twenty-five percent (25%) for Town Administration, shall be paid by the subdivider.
2. Prior to final approval of a subdivision, the sub divider shall execute and acknowledge, in a form capable of being recorded in the office of the County Recorder, a written agreement with the Town Council by which the subdivider covenants that he will not sell, lease or convey any of the subdivided property to anyone whosoever unless he shall first, as a condition precedent thereto, satisfy at least one of the requirements listed below.
 1. The agreement shall specifically provide that it shall be deemed to be a covenant running with the land to secure the installation of all the improvements required by this ordinance, together with the payment of all costs, including a reasonable attorney's fee, which the Town Council may incur in enforcing any of the terms and provisions of the agreement.
 2. The lien may be released by the Town when the subdivider complies with the requirements set forth in at least one of the following requirements:
 1. Bond. The subdivider shall furnish and file with the Town Clerk, an acceptable cash- surety bond in an amount equal to the cost of the required improvements, plus twenty-five percent (25%), as estimated by the Town Engineer.
 1. In the event the sub divider is in default or fails to or neglects to satisfactorily install the required improvements within two (2) years from the date of approval by the Town Council, or to pay all liens in connection

therewith, the Town Council may declare the bond forfeited and the Town may install or cause the required improvements to be installed, using the proceeds of the collection of the bond to defray the expenses thereof.

2. The subdivider shall be responsible for the quality of all material and workmanship. At the completion of the work, or not less than ten (10) days prior to the release date of the bond or other approved security, the Town Engineer, or authorized representative, shall make a preliminary inspection of the improvements and shall submit a report to the Town Council setting forth the conditions of such facilities.
 3. If all liens are paid, and conditions thereof are found to be satisfactory, the Town Council shall release the bond, less ten percent (10%).
 4. If the conditions of materials or workmanship shows unusual depreciation or does not comply with standards of the Town, or if any outstanding liens are not paid, the Town Council may declare the subdivider in default.
 5. At the end of guarantee period, a final inspection of the improvements shall be made by the Town Engineer, at the conclusion of which ten percent (10%) retainage will be returned to the subdivider, less costs to repair deficiencies found in the inspection. If repair costs are in excess of the retainage, the subdivider shall pay the overage.
2. Escrow Deposit. The subdivider shall deposit in escrow, with an escrow holder approved by the Town Council, an amount of money equal to at least 125% of the cost of improvements, as estimated by the Town Engineer, and require a percentage to cover the cost of inflation, under an interest-bearing escrow agreement conditioned for the installation of said improvements within two (2) years from the approval of the final plat.
 1. The escrow agreement aforesaid, shall be approved by the Town Council and the Town

Attorney, and shall be filed with the County Recorder and shall contain substantially the following language:

AGREEMENT

The undersigned hereby promises and warrants that it has in deposit in an escrow account for the benefit of Virgin Town the sum of \$_____, which represents at least 125% of the estimated costs of the improvements not accepted by the Town and not constructed or installed by the _____ developer _____ of

subdivision. The undersigned hereby agrees that the foregoing sum of money shall be used exclusively for the purpose of paying for the costs of materials, and construction and installation of the improvements required by the municipality's subdivision ordinances. The undersigned further agrees that the money held in an escrow account shall be paid out to the contractors installing and constructing the required improvements only upon an order executed by the sub divider and by an authorized officer of the Town. The sub divider shall not withdraw from the escrow account any amount in excess of one-hundred percent (100%) of the estimated cost of improvements but shall pay from other sources any costs for such improvements which exceed one- hundred percent (100%) of the costs estimated by the Engineer. A sum equal to twenty-five percent (25%) of the estimated costs of improvements shall remain with the escrow holder for a period of two (2) years after all improvements are completed and conditionally accepted. If after two (2) years, all or any part of the required improvements are not installed, constructed, and maintained according to the standards required in the Town's subdivision ordinance, the Town shall notify, in writing, the sub divider and the escrow holder of the defects and shall make demand on the sub

divider that the defects be corrected. If the defects are not corrected within thirty (30) calendar days, the Town may correct the defects and charge the costs to the escrow holder. The escrow holder shall, on receiving reasonable proof from the Town of the defect, and that the Town had incurred the cost of correcting the defect pay to the Town from the escrow account the cost of correcting the defect, and the escrow holder shall be held harmless by the parties by reason of the payment to the Town. If, after two (2) years the Town Board has conditionally accepted the improvements required by its subdivision ordinance, the required improvements remain substantially free from latent defects, the Town shall certify such fact to the escrow holder and the escrow holder shall release to the sub divider any money still held in the escrow account, and the escrow holder shall be discharged of its obligations to the Town.

AUTHORIZED _____ SIGNATURE _____

DATE _____

PAYMENT OF ENGINEERING AND ATTORNEY'S FEES

The Town of Virgin requires that all subdividers agree to pay the out-of-pocket attorney and engineering costs or fees incurred by the Town. These fees are the actual cost for legal and engineering review to ensure that all plats and plans are in compliance with Town standards. These fees shall be paid prior to release of the final plat for recordation. Failure to pay these fees shall cause the approval process to be suspended until such time the fees are paid.

AGREED _____ TO _____ BY: _____

DATE _____

OWNER/AGENT _____

FOR

SUBDIVIDER: _____

DATE _____

Acknowledgment

State of _____)

§
County of _____)

On this _____ day of _____, in the
year 20____, before me,
_____ a notary date month
year notary public name public, personally
appeared

_____,
proved on the basis of satisfactory name of
document signer evidence to be the person(s)
whose name(s) (is/are) subscribed to this
instrument, and acknowledged (he/she/they)
executed the same. Witness my hand and
official _____ seal.

Notary Public

Severability Clause: Should any part or provision of this ORDINANCE be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ORDINANCE as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Effective Date: This ORDINANCE shall be in full force and effect from [INSERT DATE] and after the required approval and publication according to law.

Repealer Clause: All Virgin Town ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

PASSED AND ADOPTED BY THE VIRGIN TOWN COUNCIL [MONTH, DAY, YEAR].

Attest:

Jean Krause, Mayor
Virgin Town, Utah

Krystal Percival, Town Clerk/Recorder
Virgin Town, Utah

Town Council Member Mistie Baird
Town Council Member Paul Luwe
Town Council Member Marci Holm
Town Council Member April McKeon
Mayor Jean Krause

RECORDED this ____ day of _____, 2017.

PUBLISHED OR POSTED this ____ day of _____, 2017.

DRAFT