

VIRGIN TOWN  
ORDINANCE NO. 2025-XX

AN ORDINANCE ADOPTING AND ENACTING A NEW SECTION IN CHAPTER 16.8 OF THE VIRGIN MUNICIPAL CODE ESTABLISHING STANDARDS FOR GRADING, EXCAVATION, AND EARTHWORK ACTIVITIES; PROVIDING FOR PERMITTING, ENGINEERING, AND ENFORCEMENT PROCEDURES; AND PROMOTING PUBLIC HEALTH, SAFETY, AND WELFARE THROUGH RESPONSIBLE LAND DISTURBANCE REGULATION.

**WHEREAS**, Virgin Town is a municipal corporation and political subdivision of the State of Utah, organized and existing under the provisions of Utah Code Annotated Title 10; and

**WHEREAS**, pursuant to Utah Code Annotated 10-9a-501 et seq., the Town Council of Virgin Town is authorized to adopt ordinances and regulations governing land use, development, and construction within the Town to protect the public health, safety, and welfare; and

**WHEREAS**, the Town Council recognizes that grading, excavation, and other earthwork activities, if not properly managed, can create hazards to life and property, cause erosion and sedimentation, and negatively affect natural drainage patterns, vegetation, and the visual character of the community; and

**WHEREAS**, the Town Council finds it necessary to establish clear standards and procedures for grading permits to ensure safe engineering practices, protect natural resources, and maintain the integrity of Virgin Town's terrain and hydrology; and

**WHEREAS**, the adoption of this ordinance will promote consistency, efficiency, and accountability in the regulation of grading and land disturbance activities, and further the Town's goals of sustainability, responsible development, and environmental protection;

**NOW THEREFORE**, BE IT ORDAINED BY THE TOWN COUNCIL OF VIRGIN TOWN, UTAH, AS FOLLOWS:

**SECTION 1. ADOPTION OF NEW SECTION 16.8.62.** Section 16.8.62 of the Virgin Municipal Code (VMC) is hereby adopted and enacted as follows:

16.8.62 - Grading Permit

- A. **PURPOSE:** The purpose of this Chapter is to protect public health, safety, and general welfare by establishing standards for grading, excavation, and earthwork activities within the Town. This Chapter is intended to:

1. Prevent erosion, sedimentation, and other forms of environmental degradation.
2. Protect natural features, including hillsides, ridgelines, streams, and vegetation.
3. Minimize the risk of landslides, slope instability, and damage to public and private property.
4. Ensure compatibility of grading activities with existing topography and planned land uses.
5. Maintain the natural hydrology and minimize adverse impacts on drainage patterns and stormwater systems.
6. Promote safe development practices through appropriate engineering design and oversight.
7. Align grading activities with the Town's goals for land use, resource protection, sustainability, and visual character.
8. Regulate the development of hazardous terrain and conserve the value and aesthetics of adjacent properties.

B. SCOPE AND APPLICABILITY: No person shall commence or perform any grading, excavation, filling, or clearing of land without first having obtained a grading permit and ascertaining the existence of underground utilities. No grading permit shall be issued except in connection with a permitted use allowed in the zoning district in which the property that is to be graded, filled, or cleared is located. Any such permitted use that requires a building permit or other approval as provided by this Title, such as home construction, commercial site plan, or a subdivision, must obtain approval as provided under this Title before a grading permit may be issued.

C. EXEMPTIONS: The following shall not require a grading permit:

1. Agricultural: Grading, excavation, filling, or clearing for agricultural purposes within an agricultural zone that does not alter natural drainage patterns or negatively impact adjacent property. Grading, excavation, etc., associated with non-agricultural uses or construction, in an agricultural zone, shall require a grading permit.
2. Residential Landscaping: Minor grading or clearing associated with landscaping projects for single-family residential uses that do not negatively impact adjacent property regarding drainage.
3. Non-disturbance of Natural Grade: Minor grading (residential), excavation, filling, or clearing that does not disturb the natural grade of more than two thousand (2,000) square feet or result in a change to the natural grade.
4. Public Facility Projects: Grading required to construct public facilities, including roadways and utility improvements, approved by the Town Council.

81 D. STANDARD GRADING PERMIT: A standard grading permit shall be required for  
82 grading, excavation, filling, or clearing that disturbs the natural grade of more than  
83 two thousand (2,000) square feet but not more than one thousand (1,000) cubic yards.  
84 Prior to the commencement of any grading, an applicant shall submit a minor grading  
85 and drainage plan consisting of the following:

- 86 1. Location of the site.
- 87 2. Name of the owner/applicant.
- 88 3. A statement of the credentials of the person who prepared the plan.
- 89 4. Date the plan was prepared.
- 90 5. A general vicinity of the proposed site.
- 91 6. Limiting dimensions and depth of cut and fill.
- 92 7. Location of any buildings or structures where work is to be performed and the  
93 location of any buildings or structures within thirty feet (30') of the proposed  
94 grading.
- 95 8. Typical cross-section of the cuts/fills resulting from excavation slopes steeper  
96 than two horizontal to one vertical must be engineered.
- 97 9. Additional items as required by the Town Engineer.

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99 E. ENGINEERED GRADING PERMIT: An engineered grading permit shall be required for  
100 grading, excavation, filling, or clearing that disturbs the natural grade of more than  
101 one thousand (1,000) cubic yards. Prior to the commencement of any engineered  
102 grading, an applicant must submit an engineered grading and drainage plan  
103 consisting of the following:

- 104 1. All submitted plans and specifications must be stamped and signed by a  
105 professional civil engineer licensed in the State of Utah.
- 106 2. Anticipated schedule of commencement of proposed excavation and grading.
- 107 3. Plans shall indicate the nature and extent of the work to be performed and  
108 that the work will conform to the most current version of the International  
109 Building Code, and all relevant laws, ordinances, rules, and regulations, and  
110 shall contain the following:
  - 111 a. The first sheet of each set of the plans shall indicate the location of the  
112 work, name and address of the owner, a statement of the credentials of  
113 the engineer who prepared the plans, and the date the plan was  
114 prepared, including revision dates.
  - 115 b. General vicinity of the proposed site.
  - 116 c. Property limits and accurate contours of existing ground and details of  
117 terrain.
  - 118 d. Existing ground slope map for the proposed site.

- 119 e. Horizontal and vertical limits of grading, including proposed elevations,  
120 finish contours, and the layout of drainage channels and related  
121 improvements.
- 122 f. Typical cross-sections of cuts/fills resulting from excavation and grading  
123 work.
- 124 g. Details of surface and subsurface drainage devices, retaining walls,  
125 cribbing, dams, etc. to be constructed with or as part of the proposed  
126 work.
- 127 h. A Drainage Study.
- 128 i. Location of any existing buildings or structures on the site and the  
129 location of any buildings or structures on adjacent property which is  
130 within thirty feet (30') of the site or which may be affected by the  
131 proposed grading.
- 132 j. A soils engineering report with recommendations incorporated in the  
133 plans and specifications. Soils engineer shall acknowledge the plans are  
134 in accordance with the soils report by stamping and signing the plan or  
135 by letter.
- 136 k. An erosion control plan.
- 137 l. SWPPP prepared by a stormwater inspector certified in the State of  
138 Utah.
- 139 m. State of Utah – Notice of Intent for stormwater construction.
- 140 n. A fugitive dust plan implementing best management practices for  
141 permanent and ongoing dust control.
- 142 o. A detailed narrative containing:
- 143 i. An estimate of the volumes, in cubic yards, of cut and/or fill, and  
144 the area of the site to be graded.
- 145 ii. A statement regarding the phasing and timing of any grading  
146 activities. If the applicant/permittee needs to grade materially  
147 out of sequence, or fails to grade in sequence, as identified in  
148 the narrative and the engineered grading plan, the Town  
149 reserves the ability to invoke its enforcement rights set forth in  
150 this Chapter.
- 151 iii. A description of equipment and methods to be employed in the  
152 grading process.
- 153 p. Any information reasonably deemed necessary by the Town Engineer.
- 154 4. Proof of land ownership in the form of a recorded deed or grant, recorded  
155 plat, or title insurance policy not older than sixty (60) days at the time of  
156 application.
- 157 5. Proof of payment of required fees, as set forth in the Approval Procedure and  
158 the Town's adopted fee schedule.

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160 F. APPROVAL PROCEDURE: The Community Development Director, or Town Designee,  
161 upon receiving a complete application (including payment of all applicable plan  
162 review and permit fees in accordance with the Town's adopted fee schedule), shall  
163 coordinate review of the application with the Town Engineer and applicable public and  
164 private utility providers to determine compliance with the approval standards of this  
165 section. No review shall commence until the application is deemed complete.

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167 Technical review by utility providers and other agencies shall be advisory in nature and  
168 intended to identify potential conflicts or deficiencies in the proposed grading plan.  
169 Such reviewers shall not act as approval authorities for the Town.

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171 Following completion of the review process, the Community Development Director, or  
172 Town Designee, shall provide the applicant one of the following responses in writing:

- 173 1. Approval of the permit application.
- 174 2. Approval of the permit application, subject to such reasonable conditions as  
175 may be necessary to substantially secure the objectives of this Title, and issue  
176 the permit subject to these conditions.
- 177 3. Denial of the permit application, indicating the reason(s) for the denial.

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179 G. PERMIT DURATION: A grading permit shall expire and become null and void if  
180 substantial work authorized by such permit has not commenced within 60 calendar  
181 days of issuance. A grading permit shall also become null and void if the entire project  
182 is not completed within twelve (12) months from the date of issuance. A grading  
183 permit may be extended for an additional time period deemed appropriate by the  
184 Community Development Director, or Town Designee, not to exceed twelve (12)  
185 months, provided that the applicant is in compliance with this section, substantial work  
186 has been completed on the site, and the reclamation bond is renewed and updated  
187 as may be required by the Town Engineer.

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189 H. INSPECTIONS: The applicant must notify the Town in advance of the commencement  
190 of grading to schedule a preconstruction meeting. No work under any grading permit  
191 may be commenced until the Town has issued a notice to proceed letter. The Town  
192 may inspect the work for compliance with the approved plans at any time. Failure to  
193 comply with the approved plans shall subject the property owner, contractor, and  
194 applicant to stop work orders, civil damages, and any other recourse or penalties  
195 available under Town, state, or federal law.

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197 I. RECLAMATION BONDS: Once the permit is issued, but before the preconstruction  
198 meeting, the project proponent shall furnish a reclamation bond in an amount of not

less than one hundred percent (100%) of the work that the Town may use to mitigate any potential hazards or disruptions caused by the grading work. The reclamation bond shall be either a cash bond or an irrevocable letter of credit in a form approved by the Town Attorney. The Town Engineer may require recalculation and adjustment of the bond amount if the scope of work changes materially during the course of grading.

J. APPROVAL STANDARDS: No grading permit shall be issued unless it meets the following standards:

1. A complete application and payment of fees.
2. Verification that no increase in stormwater drainage will occur on neighboring properties.
3. Verification that sediment will be adequately retained and erosion adequately controlled.
4. Verification that weeds will be adequately controlled.
5. Verification that dust, noise, vibration, smoke, and odor created on the site during grading operations and during idle times will be controlled and limited to prevent nuisance to neighboring properties, to comply with Utah Administrative Code R-307-205, applicable Town ordinances, and any other applicable statute or regulation.
6. Verification by the Town Engineer that the overall extent of the grading shown in the plans matches the amount used to calculate the reclamation bond.
7. Verification that the property has legal vehicular access from a public street or recorded easement sufficient for the intended grading activity, as determined by the Town.

K. GRADING OPERATIONS

1. Hours of operation shall not begin before seven (7:00) AM, and shall not continue after the hour of seven (7:00) PM. No operations shall take place on Sunday, or holidays recognized by the State of Utah. Upon request, the Community Development Director or Town Designee may approve modifications to the date and hours of operation.
2. All grading shall comply with the standards engineering specifications for slope stabilization in accordance with the geotechnical recommendations included with the application, and all other applicable Town ordinances. Slopes shall be maintained in a manner that will prevent erosion damage on adjacent properties.
3. The grading operation shall not exceed the boundary of the approved standard grading permit or the engineered grading permit (as applicable). No

grading may occur on any site where there is no approved standard grading permit, an engineered grading permit, or a qualified exemption.

L. ENFORCEMENT

1. If an applicant fails to comply with any requirement of the approved grading permit, the Community Development Director or Town Designee shall have the right to:
  - a. Order the applicant to cease and desist from all further grading activities.
  - b. Require the applicant to submit a new grading permit or any element thereof before grading activities can recommence.
  - c. Call upon the reclamation bond to accomplish the completion or reclamation of the grading activities or the grading site.
2. In addition to the remedies listed, the Town may suspend or revoke a grading permit for noncompliance, issue administrative citations, or pursue civil penalties as provided in this Title.

**SECTION 2. REPEALER.** All Virgin Town ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

**SECTION 3. SEVERABILITY.** 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.

**SECTION 4. EFFECTIVE DATE.** This ordinance shall take effect immediately upon adoption and posting as required by law.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF VIRGIN TOWN, STATE OF UTAH,  
ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

Attest:

\_\_\_\_\_  
Jean Krause, Mayor, Virgin Town

\_\_\_\_\_  
Krystal Percival, Recorder, Virgin Town

VIRGIN TOWN COUNCIL

Vote as recorded:	AYE	NAY	ABSENT
Councilmember Luwe	___	___	___
Councilmember Baird	___	___	___

272 Councilmember Wenz     \_\_\_     \_\_\_     \_\_\_  
273 Councilmember McKeon     \_\_\_     \_\_\_     \_\_\_  
274 Mayor Krause     \_\_\_     \_\_\_     \_\_\_

SEAL

275 RECORDED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

276 PUBLISHED OR POSTED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

277 **CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING**

278 In accordance with Utah Code Annotated §63G-30-102 as amended, I, the Town  
279 Clerk/Recorder of Virgin, Utah, hereby certifies that the foregoing Ordinance was duly  
280 passed and published or posted via Class A Notice at:

- 281     1) *Utah Public Notice website*  
282     2) *Virgin Town website, [www.virgin.utah.gov](http://www.virgin.utah.gov)*  
283     3) *Virgin Town Hall*

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286 Krystal Percival, Town Clerk/Recorder

287 Virgin Town, Utah

