

VIRGIN TOWN
ORDINANCE NO. 2026-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

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

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

57
58 B. DEFINITIONS: For purposes of this Section 16.8.62, the following terms shall have the
59 meanings indicated. Terms not defined in this section shall have the meanings
60 assigned in Section 16.2.12 of this Title or, if not defined therein, their ordinary
61 accepted meaning within the engineering and land-use professions.

- 62 1. "Clearing" means the removal of vegetation, organic material, or surface debris
63 in preparation for grading or construction.
- 64 2. "Cut" means the mechanical removal of earth material that lowers the
65 elevation of the natural ground.
- 66 3. "Drainage Study" means a report prepared and stamped by a licensed
67 professional civil engineer that evaluates existing and proposed drainage
68 conditions for a site, including hydrologic calculations, stormwater discharge
69 rates, drainage paths, required retention or detention, and the impact of
70 proposed grading on adjacent and downstream properties. A drainage study
71 shall be prepared in accordance with professionally accepted engineering
72 standards and any criteria adopted by the Town Engineer.
- 73 4. "Engineered Grading Permit" means a grading permit required for activities
74 that disturb the natural grade of more than one thousand (1,000) cubic yards
75 and require engineered plans stamped by a licensed professional engineer.
- 76 5. "Excavation" means the mechanical removal or movement of earth material,
77 including trenching, cutting, and digging.

6. "Fill" or "Filling" means the placement, deposition, or stockpiling of soil, rock, or earth material that raises the elevation of the natural ground.
7. "Grading" means any excavation, filling, clearing, or movement of soil, rock, or earth material, or any combination thereof.
8. "Land Disturbance" means any activity that disturbs the surface of the land, including clearing, grading, excavation, filling, stockpiling, or soil movement.
9. "Natural Grade" means the elevation of the undisturbed natural ground surface before any grading, excavation, or filling occurs, as shown by existing contours.
10. "Standard Grading Permit" means a grading permit required for activities that disturb the natural grade of more than two thousand (2,000) square feet but not more than one thousand (1,000) cubic yards.
11. "Substantial Work" means physical work on the site that materially advances the grading activity and demonstrates active construction, as determined by the Town.

C. 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 an allowed use in the zoning district in which the property that is to be graded, filled, or cleared is located. A grading permit shall not be issued until the Town has approved all other required development applications associated with the proposed work, including but not limited to building permits, site plans, conditional use permits, or subdivision approvals, so that grading is authorized only in conjunction with an approved use.

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

1. Agricultural: Grading, excavation, filling, or clearing for bona fide agricultural uses, including but not limited to crop production, livestock operations, irrigation improvements, and soil preparation, provided the work does not alter natural drainage patterns or negatively impact adjacent property. Any grading, excavation, filling, or clearing conducted for non-agricultural purposes shall require a grading permit, regardless of the zoning district.
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.

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

- 124 1. Location of the site.
- 125 2. Name of the owner/applicant.
- 126 3. A statement of the credentials of the person who prepared the plan.
- 127 4. Date the plan was prepared.
- 128 5. A general vicinity map of the proposed site, identifying all adjoining parcels
129 and the names of their current owners as listed in the Washington County
130 Assessor's records on the date of application.
- 131 6. Limiting dimensions and depth of cut and fill.
- 132 7. Location of any buildings or structures where work is to be performed and the
133 location of any buildings or structures within thirty feet (30') of the proposed
134 grading.
- 135 8. Typical cross-section of the cuts/fills resulting from excavation slopes steeper
136 than two horizontal to one vertical must be engineered.
- 137 9. A fugitive dust control plan implementing best management practices for dust
138 control during grading and construction activities, and until the site is
139 stabilized. The plan shall identify dust control measures to be used, including
140 watering, soil stabilization, phasing of grading, track-out prevention, and
141 maintenance responsibilities.
- 142 10. Identification and description of proposed track-out prevention measures,
143 including the general location of stabilized construction entrances.
- 144 11. Additional items as required by the Town Engineer.

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146 F. ENGINEERED GRADING PERMIT: An engineered grading permit shall be required for
147 grading, excavation, filling, or clearing that disturbs the natural grade of more than
148 one thousand (1,000) cubic yards. Prior to the commencement of any engineered
149 grading, an applicant must submit an engineered grading and drainage plan
150 consisting of the following:

- 151 1. All submitted plans and specifications must be stamped and signed by a
152 professional civil engineer licensed in the State of Utah.
- 153 2. Anticipated schedule of commencement of proposed excavation and grading.
- 154 3. Plans shall indicate the nature and extent of the work to be performed and
155 that the work will conform to the most current version of the International
156 Building Code, and all relevant laws, ordinances, rules, and regulations, and
157 shall contain the following:

- 158 a. The first sheet of each set of the plans shall indicate the location of the
159 work, name and address of the owner, a statement of the credentials of
160 the engineer who prepared the plans, and the date the plan was
161 prepared, including revision dates.
- 162 b. General vicinity of the proposed site.
- 163 c. Property limits and accurate contours of existing ground and details of
164 terrain.
- 165 d. Existing ground slope map for the proposed site.
- 166 e. Horizontal and vertical limits of grading, including proposed elevations,
167 finish contours, and the layout of drainage channels and related
168 improvements.
- 169 f. Typical cross-sections of cuts/fills resulting from excavation and grading
170 work.
- 171 g. Identification of existing natural washes and drainageways on the site
172 and demonstration of how such features will be preserved or, where
173 modification is proposed, justification supported by engineered
174 analysis.
- 175 h. Details of surface and subsurface drainage devices, retaining walls,
176 cribbing, dams, etc. to be constructed with or as part of the proposed
177 work.
- 178 i. A Drainage Study, prepared and stamped by a licensed professional
179 engineer, evaluating existing and proposed drainage conditions in
180 accordance with professionally accepted engineering standards and any
181 criteria adopted by the Town Engineer.
- 182 j. Location of any existing buildings or structures on the site and the
183 location of any buildings or structures on adjacent property which is
184 within thirty feet (30') of the site or which may be affected by the
185 proposed grading.
- 186 k. A soils engineering report with recommendations incorporated in the
187 plans and specifications. Soils engineer shall acknowledge the plans are
188 in accordance with the soils report by stamping and signing the plan or
189 by letter.
- 190 l. An erosion control plan.
- 191 m. A Stormwater Pollution Prevention Plan (SWPPP) prepared by a
192 stormwater inspector certified in the State of Utah.
- 193 n. Track-out prevention measures, including stabilized construction
194 entrances, shall be shown on the engineered grading plans and
195 incorporated into the erosion control plan and SWPPP, where
196 applicable.
- 197 o. State of Utah – Notice of Intent for stormwater construction.

198 p. A fugitive dust plan implementing best management practices for
199 permanent and ongoing dust control, including the installation of an air
200 quality index monitor whose data is readily accessible to the Town.

201 q. A detailed narrative containing:

202 i. An estimate of the volumes, in cubic yards, of cut and/or fill, and
203 the area of the site to be graded.

204 ii. A statement regarding the phasing and timing of any grading
205 activities. If the applicant/permittee needs to grade materially
206 out of sequence, or fails to grade in sequence, as identified in
207 the narrative and the engineered grading plan, the Town
208 reserves the ability to invoke its enforcement rights set forth in
209 this Chapter.

210 iii. A description of equipment and methods to be employed in the
211 grading process.

212 r. Any information reasonably deemed necessary by the Town Engineer.

213 4. Proof of land ownership in the form of a recorded deed or grant, recorded
214 plat, or title insurance policy not older than sixty (60) days at the time of
215 application.

216 5. Proof of payment of required fees, as set forth in the Approval Procedure and
217 the Town's adopted fee schedule.

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

225
226 Technical review by utility providers and other agencies shall be advisory in nature and
227 intended to identify potential conflicts or deficiencies in the proposed grading plan.
228 Such reviewers shall not act as approval authorities for the Town.

229
230 Following completion of the review process, the Community Development Director, or
231 Town Designee, shall provide the applicant one of the following responses in writing:

232 1. Approval of the permit application.

233 2. Approval of the permit application, subject to such reasonable conditions as
234 may be necessary to substantially secure the objectives of this Title, and issue
235 the permit subject to these conditions.

236 3. Denial of the permit application, indicating the reason(s) for the denial.
237

H. PERMIT DURATION: A grading permit shall expire and become null and void if substantial work authorized by such permit has not commenced within 60 calendar days of issuance. A grading permit shall also become null and void if the project is not completed within twelve (12) months from the date of issuance. For purposes of this section, "project" means all grading, excavation, filling, drainage improvements, and erosion-control measures shown on the approved grading plan. One extension may be granted by the Community Development Director, or Town Designee, for a period not to exceed twelve (12) additional months, provided that the applicant is in compliance with this section, substantial work has been completed on the site, and the reclamation bond is renewed and updated as may be required by the Town Engineer. No additional extensions shall be permitted.

I. INSPECTIONS:

1. Inspection Schedule: The Town shall establish and maintain a grading inspection schedule specifying the types, timing, and sequence of inspections required for grading permits issued under this chapter. The inspection schedule shall be adopted by the Town and may be updated administratively to reflect current best practices in engineering, erosion control, and site safety.

All required inspections shall be conducted in accordance with the most current inspection schedule on file with the Town at the time the inspections occur. Fees for required inspections shall be assessed in accordance with the Virgin Town Consolidated Fee Schedule, as amended.

2. Preconstruction Meeting and Notice to Proceed: The applicant must notify the Town in advance of the commencement of grading to schedule a preconstruction meeting. No work under any grading permit may be commenced until the Town has issued a Notice to Proceed. The Town may inspect the work at any time to verify compliance with the approved plans, the inspection schedule, and this chapter.

3. Failure to Comply: Failure to comply with the approved plans, permit conditions, or inspection requirements shall subject the property owner, contractor, and applicant to stop work orders, civil damages, and any other recourse or penalties available under Town, state, or federal law.

J. RECLAMATION BONDS: Once the permit is issued, but before the preconstruction 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.

K. 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 natural washes, drainages, and drainageways on or adjacent to the site are preserved in an open and functional condition and are not filled, piped, culverted, or otherwise obstructed, except where expressly approved by the Town Engineer based on demonstrated necessity and supported by engineered analysis.
4. Verification that sediment will be adequately retained and erosion adequately controlled.
5. Verification that weeds will be adequately controlled.
6. 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.
7. 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.
8. 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.

L. 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. Track-Out Prevention and Protection of Adjacent Properties:

a. Construction Access Controls: All grading activities conducted under a Standard Grading Permit or an Engineered Grading Permit shall implement measures to prevent the tracking of sediment, soil or debris from the site onto adjacent streets, rights-of-way, or neighboring properties.

b. Stabilization of Construction Entrances: A stabilized construction entrance (track-out pad) shall be installed at all points of vehicular ingress and egress prior to the commencement of grading and maintained throughout the duration of grading activities. Track-out pads shall be designed and constructed in accordance with generally accepted best management practices and shall, at a minimum:

i. Consist of crushed aggregate or other approved material,

ii. Be of sufficient length, width, and depth to effectively remove sediment from vehicle tires,

iii. Be underlain with geotextile fabric where required by the Town Engineer, and

iv. Be maintained in a condition that prevents visible track-out.

c. Maintenance and Cleanup: Any sediment or debris tracked onto public or private roadways shall be promptly removed by dry methods such as sweeping or vacuuming. Washing sediment into storm drains or drainage channels is prohibited unless expressly approved by the Town.

d. Additional Measures: The Town Engineer may require additional track-out controls, including tire wash facilities, rumble strips, or increased pad dimensions, where site conditions, traffic volume, soil type, or proximity to sensitive areas warrant enhanced protection.

4. 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.

5. Natural Washes and Drainageways: Natural washes, drainageways, and ephemeral channels shall be protected during grading operations and shall remain open and unobstructed. Grading, filling, realignment, piping, or culverting of natural drainage features is prohibited unless specifically approved as part of an engineered grading plan. Temporary or permanent crossings shall be designed to maintain the hydraulic function of the drainage feature and minimize alteration of natural flow patterns.

357 M. ENFORCEMENT

- 358 1. Violations: It is unlawful for any person to violate any provision of this chapter,
359 any condition of an approved grading permit, or to perform any grading,
360 excavation, filling, or clearing for which a grading permit is required without
361 first obtaining such permit. Each day during which a violation continues shall
362 constitute a separate violation.
- 363 2. Stop-Work Orders; Permit Actions: The Community Development Director, or
364 Town Designee, may issue a stop-work order, suspend or revoke a grading
365 permit, or require the submission and approval of a new grading permit or any
366 component thereof prior to resuming work.
- 367 3. Use of Reclamation Bond: The Town may call upon or forfeit the reclamation
368 bond to complete stabilization, restoration, or reclamation of the site if the
369 permittee fails to comply with this chapter or the conditions of the grading
370 permit.
- 371 4. Abatement: The Town may require the owner or permittee to abate any
372 violation of this chapter. If the owner or permittee fails to abate the violation
373 after notice, the Town may perform the abatement and recover its costs.
- 374 5. Penalty: Any person violating the provisions of this chapter shall be guilty of an
375 infraction and shall be required to pay a fine of not more than seven hundred
376 fifty dollars (\$750.00), plus restitution if applicable. Each day that a violation
377 continues shall be considered a separate violation.
- 378

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

381 **SECTION 3. SEVERABILITY.** Should any part or provision of this Ordinance be
382 declared by the courts to be unconstitutional or invalid, such decision shall not affect the
383 validity of the Ordinance as a whole or any part thereof other than the part so declared
384 to be unconstitutional or invalid.

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

387 PASSED AND ADOPTED BY THE TOWN COUNCIL OF VIRGIN TOWN, STATE OF UTAH,
388 ON THE ____ DAY OF _____, 20____.

389 Attest:

390 _____
391 Jean Krause, Mayor, Virgin Town

Krystal Percival, Recorder, Virgin Town

392 VIRGIN TOWN COUNCIL
393 Vote as recorded: AYE NAY ABSENT
394 Councilmember Luwe ___ ___ ___
395 Councilmember Baird ___ ___ ___
396 Councilmember Wenz ___ ___ ___
397 Councilmember McKeon ___ ___ ___
398 Mayor Krause ___ ___ ___

SEAL

399 RECORDED this ___ day of _____, 20__.

400 PUBLISHED OR POSTED this ___ day of _____, 20__.

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

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

- 405 1) *Utah Public Notice website*
406 2) *Virgin Town website, www.virgin.utah.gov*
407 3) *Virgin Town Hall*

408

409 _____

410 Krystal Percival, Town Clerk/Recorder

411 Virgin Town, Utah