

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 10-20-101 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.

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

92
93 C. SCOPE AND APPLICABILITY: No person shall commence or perform any grading,
94 excavation, filling, or clearing of land without first having obtained a grading permit
95 and ascertaining the existence of underground utilities. No grading permit shall be
96 issued except in connection with an allowed use in the zoning district in which the
97 property that is to be graded, filled, or cleared is located. A grading permit shall not
98 be issued until the Town has approved all other required development applications
99 associated with the proposed work, including but not limited to building permits, site
100 plans, conditional use permits, or subdivision approvals, so that grading is authorized
101 only in conjunction with an approved use.
102

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

- 104 1. Agricultural: Grading, excavation, filling, or clearing for bona fide agricultural
105 uses, including but not limited to crop production, livestock operations,
106 irrigation improvements, and soil preparation, provided the work does not alter
107 natural drainage patterns or negatively impact adjacent property. Any grading,
108 excavation, filling, or clearing conducted for non-agricultural purposes shall
109 require a grading permit, regardless of the zoning district.
110 2. Residential Landscaping: Minor grading or clearing associated with
111 landscaping projects for single-family residential uses that do not negatively
112 impact adjacent property regarding drainage.
113 3. Non-disturbance of Natural Grade: Minor grading (residential), excavation,
114 filling, or clearing that does not disturb the natural grade of more than two
115 thousand (2,000) square feet or result in a change to the natural grade.
116 4. Emergency and Public Facility Projects: Grading required to repair, restore, or
117 construct public facilities, including roadways, utility improvements, and public

118 infrastructure, where the work is immediately necessary to protect the public
119 health, safety, and welfare, as determined by the Town, or where the project
120 has been approved by the Town Council.
121

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

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

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

- 154 1. All submitted plans and specifications must be stamped and signed by a
155 professional civil engineer licensed in the State of Utah.
- 156 2. Anticipated schedule of commencement of proposed excavation and grading.

157 3. Plans shall indicate the nature and extent of the work to be performed and
158 that the work will conform to the most current version of the International
159 Building Code, and all relevant laws, ordinances, rules, and regulations, and
160 shall contain the following:

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

- 196 n. Track-out prevention measures, including stabilized construction
197 entrances, shall be shown on the engineered grading plans and
198 incorporated into the erosion control plan and SWPPP, where
199 applicable.
- 200 o. State of Utah – Notice of Intent for stormwater construction.
- 201 p. A fugitive dust plan implementing best management practices for
202 permanent and ongoing dust control, including the installation of an air
203 quality index monitor whose data is readily accessible to the Town.
- 204 q. A detailed narrative containing:
- 205 i. An estimate of the volumes, in cubic yards, of cut and/or fill, and
206 the area of the site to be graded.
- 207 ii. A statement regarding the phasing and timing of any grading
208 activities. If the applicant/permittee needs to grade materially
209 out of sequence, or fails to grade in sequence, as identified in
210 the narrative and the engineered grading plan, the Town
211 reserves the ability to invoke its enforcement rights set forth in
212 this Chapter.
- 213 iii. A description of equipment and methods to be employed in the
214 grading process.
- 215 r. Any information reasonably deemed necessary by the Town Engineer.
- 216 4. Proof of land ownership in the form of a recorded deed or grant, recorded
217 plat, or title insurance policy not older than sixty (60) days at the time of
218 application.
- 219 5. Proof of payment of required fees, as set forth in the Approval Procedure and
220 the Town's adopted fee schedule.
- 221 G. MASTER GRADING PERMIT FOR IMPROVED SUBDIVISIONS: In lieu of individual
222 engineered grading permits for each lot, the Town may issue a master grading permit
223 for an approved subdivision where grading is proposed for the entire subdivision area
224 or a defined phase thereof. A master grading permit shall be subject to the same
225 application, plan, and approval requirements as an engineered grading permit under
226 this Section, applied to the subdivision as a whole. Individual lot grading that
227 conforms to the approved master grading plan shall not require a separate grading
228 permit, provided that:
- 229 1. The individual lot grading does not exceed the grading limits, contours, and
230 drainage design shown on the master grading plan;
- 231 2. The applicable reclamation bond for the entire permitted area remains in full
232 force and effect; and
- 233 3. (c) All conditions of the master grading permit have been satisfied or bonded.
- 234 Any individual lot grading that materially deviates from the master grading plan shall
235 require a separate standard or engineered grading permit, as applicable.

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

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

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

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

I. 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.

J. 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.

276 All required inspections shall be conducted in accordance with the most
277 current inspection schedule on file with the Town at the time the inspections
278 occur. Fees for required inspections shall be assessed in accordance with the
279 Virgin Town Consolidated Fee Schedule, as amended.
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281 2. Preconstruction Meeting and Notice to Proceed: The applicant must notify the
282 Town in advance of the commencement of grading to schedule a
283 preconstruction meeting. No work under any grading permit may be
284 commenced until the Town has issued a Notice to Proceed. The Town may
285 inspect the work at any time to verify compliance with the approved plans, the
286 inspection schedule, and this chapter.
287

288 3. Failure to Comply: Failure to comply with the approved plans, permit
289 conditions, or inspection requirements shall subject the property owner,
290 contractor, and applicant to stop work orders, civil damages, and any other
291 recourse or penalties available under Town, state, or federal law.
292

293 K. RECLAMATION BONDS: Once the permit is issued, but before the preconstruction
294 meeting, the project proponent shall furnish a reclamation bond in an amount of not
295 less than one hundred percent (100%) of the work that the Town may use to mitigate
296 any potential hazards or disruptions caused by the grading work. The reclamation
297 bond shall be either a cash bond, an irrevocable letter of credit, or a performance
298 bond issued by a surety licensed to do business in the State of Utah in a form
299 approved by the Town Attorney. The Town Engineer may require recalculation and
300 adjustment of the bond amount if the scope of work changes materially during the
301 course of grading.
302

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

- 305 1. A complete application and payment of fees.
- 306 2. Verification that no increase in stormwater drainage will occur on neighboring
307 properties.
- 308 3. Verification that natural washes, drainages, and drainageways on or adjacent to
309 the site are preserved in an open and functional condition and are not filled,
310 piped, culverted, or otherwise obstructed, except where expressly approved by
311 the Town Engineer based on demonstrated necessity and supported by
312 engineered analysis. Wherever possible, these areas should remain in their
313 natural state.
- 314 4. Verification that sediment will be adequately retained and erosion adequately
315 controlled.

- 316 5. Verification that weeds will be adequately controlled.
317
318 6. Verification that dust, noise, vibration, smoke, and odor created on the site
319 during grading operations and during idle times will be controlled and limited
320 to prevent nuisance to neighboring properties, to comply with Utah
321 Administrative Code R-307-205, applicable Town ordinances, and any other
322 applicable statute or regulation.
323 7. Verification by the Town Engineer that the overall extent of the grading shown
324 in the plans matches the amount used to calculate the reclamation bond.
325 8. Verification that the property has legal vehicular access from a public street or
326 recorded easement sufficient for the intended grading activity, as determined
327 by the Town.

328 M. GRADING OPERATIONS

- 329 1. Hours of operation shall not begin before seven (7:00) AM, and shall not
330 continue after the hour of seven (7:00) PM. No operations shall take place on
331 Sunday or holidays recognized by the State of Utah. Upon request, the
332 Community Development Director or Town Designee may approve
333 modifications to the date and hours of operation.
334 2. All grading shall comply with the standards engineering specifications for slope
335 stabilization in accordance with the geotechnical recommendations included
336 with the application, and all other applicable Town ordinances. Slopes shall be
337 maintained in a manner that will prevent erosion damage on adjacent
338 properties.
339 3. Track-Out Prevention and Protection of Adjacent Properties:
340 a. Construction Access Controls: All grading activities conducted under a
341 Standard Grading Permit or an Engineered Grading Permit shall
342 implement measures to prevent the tracking of sediment, soil or debris
343 from the site onto adjacent streets, rights-of-way, or neighboring
344 properties.
345 b. Stabilization of Construction Entrances: A stabilized construction
346 entrance (track-out pad) shall be installed at all points of vehicular
347 ingress and egress prior to the commencement of grading and
348 maintained throughout the duration of grading activities. Track-out pads
349 shall be designed and constructed in accordance with generally
350 accepted best management practices and shall, at a minimum:
351 i. Consist of crushed aggregate or other approved material,
352 ii. Be of sufficient length, width, and depth to effectively remove
353 sediment from vehicle tires,
354 iii. Be underlain with geotextile fabric where required by the Town
355 Engineer, and

- 356 iv. Be maintained in a condition that prevents visible track-out.
- 357 c. Maintenance and Cleanup: Any sediment or debris tracked onto public
- 358 or private roadways shall be promptly removed by dry methods such as
- 359 sweeping or vacuuming. Washing sediment into storm drains or
- 360 drainage channels is prohibited unless expressly approved by the Town.
- 361 d. Additional Measures: The Town Engineer may require additional track-
- 362 out controls, including tire wash facilities, rumble strips, or increased
- 363 pad dimensions, where site conditions, traffic volume, soil type, or
- 364 proximity to sensitive areas warrant enhanced protection.
- 365 4. The grading operation shall not exceed the boundary of the approved
- 366 standard grading permit or the engineered grading permit (as applicable). No
- 367 grading may occur on any site where there is no approved standard grading
- 368 permit, an engineered grading permit, or a qualified exemption.
- 369 5. Natural Washes and Drainageways: Natural washes, drainageways, and
- 370 ephemeral channels shall be protected during grading operations and shall
- 371 remain open and unobstructed. Grading, filling, realignment, piping, or
- 372 culverting of natural drainage features is prohibited unless specifically
- 373 approved as part of an engineered grading plan. Temporary or permanent
- 374 crossings shall be designed to maintain the hydraulic function of the drainage
- 375 feature and minimize alteration of natural flow patterns.
- 376 a. Wherever possible, these areas should remain in their natural state.
- 377 However, nothing in this section shall be construed to prevent an
- 378 applicant from demonstrating, through an engineered grading and
- 379 drainage plan, that natural drainage features can be accommodated
- 380 while maintaining the development yield otherwise permitted under
- 381 applicable zoning regulations.

382 N. ENFORCEMENT

- 384 1. Violations: It is unlawful for any person to violate any provision of this chapter,
- 385 any condition of an approved grading permit, or to perform any grading,
- 386 excavation, filling, or clearing for which a grading permit is required without
- 387 first obtaining such permit. Each day during which a violation continues shall
- 388 constitute a separate violation.
- 389 2. Stop-Work Orders; Permit Actions: The Community Development Director, or
- 390 Town Designee, may issue a stop-work order, suspend or revoke a grading
- 391 permit, or require the submission and approval of a new grading permit or any
- 392 component thereof prior to resuming work.
- 393 3. Use of Reclamation Bond: The Town may call upon or forfeit the reclamation
- 394 bond to complete stabilization, restoration, or reclamation of the site if the

395 permittee fails to comply with this chapter or the conditions of the grading
396 permit.
397 4. Abatement: The Town may require the owner or permittee to abate any
398 violation of this chapter. If the owner or permittee fails to abate the violation
399 after notice, the Town may perform the abatement and recover its costs.
400 5. Penalty: Any person violating the provisions of this chapter shall be guilty of an
401 infraction and shall be required to pay a fine of not more than seven hundred
402 fifty dollars (\$750.00), plus restitution if applicable. Each day that a violation
403 continues shall be considered a separate violation.
404

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

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

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

413 PASSED AND ADOPTED BY THE TOWN COUNCIL OF VIRGIN TOWN, STATE OF UTAH,
414 ON THE ___ DAY OF _____, 20__.

415 _____ Attest:
416 _____
417 Jean Krause, Mayor, Virgin Town Krystal Percival, Recorder, Virgin Town

418 VIRGIN TOWN COUNCIL

419 Vote as recorded:	AYE	NAY	ABSENT
420 Councilmember Luwe	___	___	___
421 Councilmember BairdKietzman	___	___	___
422 Councilmember Wenz	___	___	___
423 Councilmember McKeon	___	___	___
424 Mayor Krause	___	___	___

SEAL

425 RECORDED this ___ day of _____, 20__.

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

427 CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

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

- 431 1) *Utah Public Notice website*
- 432 2) *Virgin Town website, www.virgin.utah.gov*
- 433 3) *Virgin Town Hall*

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435 _____

436 Krystal Percival, Town Clerk/Recorder

437 Virgin Town, Utah

