

VIRGIN TOWN
ORDINANCE NO. 2026-XX



AN ORDINANCE ADOPTING AND ENACTING A NEW CHAPTER 46 IN TITLE 16 OF THE VIRGIN MUNICIPAL CODE (“VMC”), ESTABLISHING A REVIEW PROCESS FOR NEW OR UNLISTED BUSINESS USES AS REQUIRED BY UTAH CODE 10-20-507; PROVIDING FOR CLASSIFICATION REQUESTS, ADMINISTRATIVE REVIEW, LEGISLATIVE ACTION, AND APPEALS; AND MAKING RELATED AMENDMENTS.

RECITALS

WHEREAS Virgin Town (“Town”) is a Utah municipal corporation and political subdivision of the State of Utah, organized and existing under the provisions of Utah Code Annotated Title 10.

WHEREAS Pursuant to Utah Code Ann. §§ 10-20-502 and 10-20-503 the Virgin Town Council (“Town Council”), acting in its capacity as the governing and legislative body of the Town, has enacted land use regulations found in Title 16 (Land Uses) of the VMC and an official zoning map which set forth zoning districts and the types of land uses and densities that are allowed within each zoning district.

WHEREAS the Utah State Legislature has recently adopted new regulations codified in Utah Code Ann. § 10-20-507 that requires each municipality to provide a process for administrative classification and, if necessary, legislative consideration of a proposed business use that are not expressly designated as a permitted, conditional or prohibited use within a zoning district.

WHEREAS the Town Council finds that establishing such a process will ensure that unlisted business uses are evaluated for compatibility with existing zoning, potential impacts to public services and infrastructure, and alignment with the Virgin General Plan.

WHEREAS the Town Council further finds that legislative consideration of new unlisted business uses should occur only after review by the Planning Commission and only through formal amendment to the land use ordinance.

WHEREAS the Town Council desires to implement Utah Code 10-20-507 by adopting a new chapter to Title 16 (Land Uses) of the VMC to be known as Chapter 46 which establishes clear procedures for Classification Requests, administrative determinations, legislative review, and appeal rights.

WHEREAS the Virgin Town Planning Commission (“Planning Commission”) has reviewed this proposed ordinance, and after conducting a properly noticed public hearing on the same on _____, 2026, forwarded the same to the Town Council with a recommendation that it be adopted as a formal land use regulation of the Town.

ORDINANCE

NOW THEREFORE, BE IT ORDAINED by the Town Council of Virgin Town, Utah, as follows:

1. Amendment to Virgin Municipal Code 16.02.12. Section 16.02.12 (Definitions) of the VMC is hereby amended to include the following defined terms:

16.02.12 – Definitions

....

***Classification Request.** A Classification Request means a written request submitted to the Town for a determination of whether a proposed business use aligns with an existing land use category listed in the Virgin Municipal Code.*

....

***New or Unlisted Business Use.** A New or Unlisted Business Use means a business activity that does not align with or is not substantially similar to any existing land use category listed in the Virgin Municipal Code.*

2. Adoption of Title 16, New Chapter 46. Chapter 46 (New and Unlisted Business Uses) of Title 16 (Land Uses) of the VMC is hereby adopted and enacted as follows:

16.46. - New and Unlisted Business Uses

16.46.02 - Purpose

The purpose of this Chapter is to establish a formal, consistent, and transparent procedure for reviewing, classifying, and acting upon New and Unlisted Business Uses that are not identified within the Virgin Municipal Code, as required by Utah Code 10-20-507. This Chapter ensures that proposed Business Uses that are not expressly listed in the Town's land use regulations are subject to an orderly review. The Town recognizes that new business types and commercial activities may arise that were not contemplated at the time of adoption of the current land use tables. Accordingly, this Chapter provides a structured administrative process for determining whether a proposed Business Use aligns with an existing land use or must be forwarded for legislative consideration as a New or Unlisted Business Use. The processes established herein are intended to:

- A. *Provide a fair and objective method for classifying Business Uses that are not expressly listed in the land use ordinance;*
- B. *Maintain the integrity and intent of the Town's zoning districts by ensuring that business activities are appropriately evaluated for consistency with established use categories;*

C. *Ensure that proposed New or Unlisted Business Uses are reviewed for compatibility with the Virgin Town General Plan and with surrounding land uses;*

D. *Protect the public health, safety, and welfare by requiring that potential impacts associated with new business activities are fully considered; and*

E. *Clarify the administrative and legislative roles in reviewing Business Uses that are not specifically addressed in the land use ordinance.*

16.46.04 – Definitions/Interpretation

For the purposes of this Chapter, where terms are not defined herein, they shall be interpreted according to the definitions contained in Section 16.02.12 or elsewhere in the Virgin Municipal Code, or Utah Code Title 10, Chapter 20, as applicable, or their ordinary meaning.

16.62.06- Classification Request Procedure

The Classification Request provides a formal process for determining whether a proposed business use aligns with an existing land use category identified in the Virgin Municipal Code or must instead be processed as a New or Unlisted Business Use.

A. *Filing a Classification Request. Any person proposing to establish a business use that is not clearly identified in the Town's permitted or conditional use tables shall submit a Classification Request to the Land Use Authority.*

1. *The request shall be submitted on a form provided by the Town and shall include all information reasonably necessary to evaluate the proposed business activity, including but not limited to:*

a. *A description of the proposed activity or operation;*

b. *The proposed location and zoning district;*

c. *The scale or intensity of the activity; and*

d. *A summary of anticipated external impacts, such as noise, light, traffic, or customer activity.*

2. *The Classification Request must be accompanied by payment of the requisite application fee as designated in the Town's Uniform Fee Schedule, as amended from time to time.*

B. Delegated Administrative Land Use Authority for Classification Requests. The Town Council hereby delegates the Community Development Director, or Town Designee, as the Administrative Land Use Authority to review and act upon all Classification Requests.

C. Review by Administrative Land Use Authority. The Administrative Land Use Authority shall review the Classification Request to determine whether the proposed business use:

- 1. Aligns with an existing land use category listed in the Virgin Municipal Code; or*
- 2. Does not align with an existing land use category and therefore constitutes a New or Unlisted Business Use.*
- 3. In making this determination required in Subsections C.1 and C.2, above, the Administrative Land Use Authority may consider:*
 - a. Similarity in character, scale, and intensity;*
 - b. Operational characteristics;*
 - c. The use's potential effects on surrounding properties;*
 - d. Anticipated traffic or parking demand;*
 - e. Compatibility with the Virgin Town General Plan;*
 - f. Environmental or nuisance-related impacts; and*
 - g. Any functional attributes relevant to land use classification.*

D. Requests for Additional Information. The Administrative Land Use Authority may request additional information or documentation reasonably necessary to determine whether the proposed use aligns with an existing land use category. Such requests shall be made in writing and shall specify the information required. The applicant shall provide the requested information within a reasonable timeframe established by the Administrative Land Use Authority, which in no instance shall be less than ten (10) business days. Failure to provide the requested information may result in the Classification Request being deemed incomplete or withdrawn.

16.46.08 – Classification Request Determination Types and Notification

Upon receipt of a complete Classification Request, the Administrative Land Use Authority shall make one of the following determinations:

A. Alignment with an existing use category. If the Land Use Authority determines that the proposed business use aligns with an existing land use category listed in the Virgin Municipal Code, the Land Use Authority shall notify the applicant of that determination, and the proposed use shall be processed under the regulations applicable to that existing use category.

B. New or Unlisted Business Use. If the Land Use Authority determines that the proposed business use does not align with a listed use, the Land Use Authority shall notify the applicant that the proposed use is classified as a New or Unlisted Business Use, and the application shall be reviewed under Section 16.46.10.

16.62.10 - Review of New or Unlisted Business Uses

When the Administrative Land Use Authority determines under this Chapter that a proposed business use constitutes a New or Unlisted Business Use, the applicant may apply for, and request that their proposed New or Unlisted Business Use, be referred into the legislative land use amendment process as provided in this Section. Such a referral does not create an entitlement to approval or establish that the proposed use is appropriate for inclusion in the land use ordinance.

A. New Use Application Requirements. The applicant shall submit a New or Unlisted Business Use Application (“New Use Application”) on a form provided by the Town. The New Use Application shall include information reasonably necessary for the Planning Commission and the Town Council to evaluate the proposed new use, including but not limited to:

- 1. A description of the proposed business activity;*
- 2. Its anticipated operational characteristics, intensity, and potential impacts;*
- 3. The proposed location and zoning district(s) in which the use may operate;*
- 4. Expected impacts on public services, infrastructure, and surrounding properties; and*
- 5. Any studies, analyses, or supporting documentation requested by Town staff or reviewing bodies.*

B. The New Use Application must be accompanied by payment of the requisite application fee as designated in the Town's Uniform Fee Schedule, as amended from time to time.

C. Proposed Text Amendment. Because approval of a New or Unlisted Business Use requires an amendment to Title 16 (Land Uses) of the Virgin Municipal Code, the New Use Application shall submit a proposed text amendment, including:

- 1. Draft language defining or describing the new use category;*
- 2. A proposed list of the zoning district(s) in which the use should be permitted, conditional, or prohibited;*
- 3. Any proposed development standards or regulatory requirements for the use; and*
- 4. Draft revisions to any affected sections, tables, or definitions within the Virgin Municipal Code.*

D. Applicant's Proposed Text Not Binding. The applicant's text amendment is advisory only and shall not bind Town staff, the Planning Commission, or the Town Council. The Town Council may modify, replace, expand, reject, or otherwise revise the proposed amendment in any manner they deem appropriate to ensure consistency with the Virgin Municipal Code, the General Plan, and Utah law.

E. Planning Commission Review and Recommendation

The New Use Application and the proposed text amendment shall be reviewed by the Planning Commission as a proposed amendment to the Town's land use regulations in accordance with Utah Code Title 10, Chapter 20, Article 5 and the Virgin Municipal Code.

- 1. The Planning Commission shall hold a public hearing, as required by law, and shall consider:*
 - a. The use's consistency with the General Plan;*
 - b. Compatibility with the purposes and intent of zoning districts;*
 - c. Impacts on surrounding land uses and neighborhoods;*
 - d. Impacts on public health, safety, and welfare; and*

e. Any additional factors the Planning Commission considers relevant.

2. The Planning Commission shall forward to the Town Council a written recommendation of either, Approval, Approval with modifications, or Denial.

F. *Legislative Review and Potential Approval*

After receiving the Planning Commission recommendation and conducting a public hearing, the Town Council shall approve, approve with modifications, or deny the proposed New or Unlisted Business Use.

1. *Approval. If the Town Council approves the New or Unlisted Business Use, the Town Council shall adopt an ordinance amending the Title 16 (Land Use) of the Virgin Municipal Code to:*

a. *Create, describe, or define the new use category;*

b. *Designate zoning district(s) where the use is permitted, conditional, or prohibited;*

c. *Establish any applicable development standards or regulations; and*

d. *Revise any use tables, charts, or related sections as necessary.*

2. *Timeline for Action. The Town Council shall approve or deny the proposed New or Unlisted Business Use within seventy-five (75) days after determining the application is complete, provided the applicant responds to requests for additional information and appears at required hearings.*

3. *No Entitlement Created. Approval, conditional approval, or compliance with application requirements for a New Use Application does not create a vested right or entitlement to approval.*

G. *Written Notification of Final Action. The Town shall provide written notice to the applicant of the Legislative Body's final action, including approval, conditional approval, or denial of their New Use Application, and shall include each reason for denial and information regarding the right to appeal pursuant to Section 16.46.12.*

16.62.12 – Appeals

A. *Right to Appeal.* An applicant may appeal the Administrative Land Use Authority's determination under this Chapter regarding a Classification Request – specifically whether a proposed business use aligns with an existing land use category or constitutes a New or Unlisted Business Use. Such appeals shall be filed and processed in accordance with the Town's established land use appeal procedures set forth in Chapter 16.6 of the Virgin Municipal Code.

B. *Notice of Appeal Rights.* Written notice of the Administrative Land Use Authority's Classification Request determination shall include information regarding the applicant's right to appeal under this Section.

3. Amendments To Title 16 Zoning Districts. The VMC is further amended as follows:

A. Title 16, Chapter 32, to add Section 24 as follows:

16.32.24 – Unlisted Business Uses

Business Uses not expressly listed in this Chapter shall be processed and reviewed in accordance with the New or Unlisted Business Use procedures set forth in Chapter 46 of this Title.

B. Title 16, Chapter 34, to add Section 22 as follows:

16.34.22 – Unlisted Business Uses

Business Uses not expressly listed in this Chapter shall be processed and reviewed in accordance with the New or Unlisted Business Use procedures set forth in Chapter 46 of this Title.

C. Title 16, Chapter 38, to add Section 14 as follows:

16.38.14 – Unlisted Business Uses

Business Uses not expressly listed in this Chapter shall be processed and reviewed in accordance with the New or Unlisted Business Use procedures set forth in Chapter 46 of this Title.

D. Title 16, Chapter 40, to add Section 42 as follows:

16.40.42 – Unlisted Business Uses

Business Uses not expressly listed in this Chapter shall be processed and reviewed in accordance with the New or Unlisted Business Use procedures set forth in Chapter 46 of this Title.

E. Title 16, Chapter 42, to add Section 12 as follows:

16.42.12 – Unlisted Business Uses

Business Uses not expressly listed in this Chapter shall be processed and reviewed in accordance with the New or Unlisted Business Use procedures set forth in Chapter 46 of this Title.

F. Title 16, Chapter 44, to add Section 18 as follows:

16.44.18 – Unlisted Business Uses

Business Uses not expressly listed in this Chapter shall be processed and reviewed in accordance with the New or Unlisted Business Use procedures set forth in Chapter 46 of this Title.

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

5. 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.

6. 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 _____, 2026 by the following vote:

Council Person:

Valerie Wenz	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
April McKeon	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Paul Luwe	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
James Kietzman	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Jean Krause <i>Mayor</i>	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____

VIRGIN TOWN
a Utah municipal corporation

Attest:

Jean Krause, Mayor

Krystal Percival, Town Recorder

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

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

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

Krystal Percival, Town Recorder