



To: Mayor and Town Council Members

From: Mark C. Meyers, Town Manager

Date: August 6, 2026

Subject: Grading ordinance – Proposed Amendment

Background

Attached is a staff report from Town Planner Ryker Steglich recommending a text amendment to the recently adopted grading permit ordinance. As can happen with new ordinances, they are adopted based on theory and when put into practice can identify practical issues that were unforeseen. The report speaks for itself, so I won't go into detail here.

Recommendation

Staff is requesting that the Town Council review the report and associated draft amendment (attached) and refer it to the Planning Commission for a formal recommendation.

VIRGIN TOWN

Staff Report — Proposed Ordinance No. 2026-XX — Grading Permit Scope and Applicability

To: Virgin Town Planning Commission / Town Council

From: Ryker Steglich, Town Planner, Sunrise Engineering

Date: August 4, 2026

Subject: Proposed Ordinance No. 2026-XX — Grading Permit Scope and Applicability (VMC § 16.8.62(C))

AT A GLANCE

Application	Legislative Text Amendment — VMC § 16.8.62(C)
Subject	Grading Permit Scope and Applicability — VMC § 16.8.62(C)
Prepared By	Ryker Steglich, Town Planner, Sunrise Engineering
Date	_____, 2026
Next Step	Planning Commission recommendation; Town Council adoption

I. BACKGROUND

The Town Council adopted Ordinance No. 2026-05 enacting Section 16.8.62 of the Virgin Municipal Code (VMC), which establishes standards and permitting procedures for grading, excavation, and earthwork activities. Subsection C of that section governs the scope and applicability of the grading permit requirement, including the relationship between a grading permit and other required development approvals.

As currently written, Subsection C provides that a grading permit shall not be issued until the Town has approved all other required development applications associated with the proposed work, including building permits, site plans, conditional use permits, and subdivision approvals. The intent of this provision is to ensure that grading is authorized only in connection with an approved use.

In administering the ordinance, staff has identified an implementation obstacle arising from this sequencing requirement. Approval of a building permit commonly depends on a geotechnical or soils report, and preparation of that report typically requires exploratory excavation — such as soils test pits and borings — to be performed on the site. Because that exploratory excavation is itself a

form of grading, and because Subsection C bars issuance of a grading permit until the associated development approvals are already in place, the current language can prevent an applicant from performing the investigation necessary to obtain the very approval on which the grading permit is conditioned. The result is a circular obstacle that delays the orderly review and approval of development. This is a Town-initiated legislative amendment addressing that obstacle.

II. DESCRIPTION OF PROPOSED ORDINANCE

Ordinance No. 2026-XX would amend Subsection C of Section 16.8.62. The amendment is narrow and does not alter the purpose, definitions, exemptions, pre-activity notice, engineering, or enforcement provisions of the grading ordinance. It makes two changes:

A. Concurrent Review

The requirement that a grading permit not be issued until all other development approvals are complete is replaced with a provision allowing the grading permit application to be reviewed concurrently with the associated development approval, and to be conditioned upon that approval where appropriate. This preserves the Town’s ability to tie grading to an approved project while removing the rigid sequencing that created the obstacle.

B. Exploratory Excavation

The amendment clarifies that the subsection does not prohibit exploratory excavation, including soils test pits and borings, undertaken to prepare studies or reports required for a pending or anticipated development application, provided the site is restored to natural grade upon completion. This allows the geotechnical investigation necessary to support a development application to proceed without being blocked by the sequencing requirement.

The allowed-use limitation — that no grading permit shall be issued except in connection with an allowed use in the applicable zoning district — is retained without change. The following table compares the current and proposed language of Subsection C.

Current Language	Proposed Language
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	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. Where grading is proposed in support of a specific development, the grading permit

Current Language	Proposed Language
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.	application shall be reviewed concurrently with, and may be conditioned upon approval of, the associated building permit, site plan, conditional use permit, or subdivision approval. This subsection shall not prohibit exploratory excavation, including soils test pits and borings, undertaken to prepare studies or reports required for a pending or anticipated development application, provided the site is restored to natural grade upon completion.

II. FINDINGS AND RECOMMENDATION

Based on the foregoing, staff offers the following findings for consideration:

1. The current sequencing requirement in VMC § 16.8.62(C) can prevent the exploratory excavation necessary to prepare the geotechnical and other studies required to support a building permit or other development application, creating an obstacle to the orderly review and approval of development.
2. The proposed amendment resolves this obstacle by providing for concurrent review of grading permit applications with associated development approvals and by authorizing exploratory excavation undertaken to prepare studies or reports required for a development application, subject to restoration of the site to natural grade upon completion.
3. The amendment retains the Town's regulatory oversight of grading activities, including the requirement that grading be connected to an allowed use and the Town's ability to condition a grading permit upon the associated development approval.
4. The proposed ordinance is consistent with the purpose of Section 16.8.62 and with the Municipal Land Use, Development, and Management Act.

Recommendation. Staff recommends approval of the proposed ordinance amending VMC § 16.8.62(C), subject to any modifications directed.

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VIRGIN TOWN
ORDINANCE NO. 2026-XX

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AN ORDINANCE AMENDING SUBSECTION C (SCOPE AND APPLICABILITY) OF SECTION 16.8.62 OF THE VIRGIN MUNICIPAL CODE TO PROVIDE FOR CONCURRENT REVIEW OF GRADING PERMIT APPLICATIONS WITH ASSOCIATED DEVELOPMENT APPROVALS, TO AUTHORIZE EXPLORATORY EXCAVATION FOR GEOTECHNICAL AND OTHER STUDIES REQUIRED TO SUPPORT DEVELOPMENT APPLICATIONS.

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RECITALS

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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.

WHEREAS pursuant to Utah Code Annotated 10-20-101 et seq., the Town Council of Virgin Town is authorized to adopt and amend ordinances and regulations governing land use, development, and construction within the Town to protect the public health, safety, and welfare.

WHEREAS the Town Council previously adopted Ordinance No. 2026-05, enacting Section 16.8.62 of the Virgin Municipal Code to establish standards for grading, excavation, and earthwork activities.

WHEREAS Subsection C of Section 16.8.62 currently provides that a grading permit shall not be issued until the Town has approved all other required development applications associated with the proposed work.

WHEREAS the Town has identified that this requirement can prevent the exploratory excavation, including soils test pits and borings, that is necessary to prepare geotechnical and other studies required to support building permit and other development applications, thereby creating an obstacle to the orderly review and approval of development.

WHEREAS The Town Council finds that amending Subsection C to provide for concurrent review of grading permit applications with associated development approvals, and to authorize exploratory excavation undertaken to prepare studies or reports required for development applications, will resolve this obstacle while preserving the Town's ability to ensure that grading is authorized only in connection with an allowed and approved use.

WHEREAS The Town Council finds that this amendment promotes consistency, efficiency, and accountability in the regulation of grading and land disturbance activities and furthers the public health, safety, and welfare.

WHEREAS the Planning Commission held a public hearing on this ordinance _____ 2026.

46 **WHEREAS** the Virgin Town Planning and Zoning Commission recommended in a __ to __ vote
47 that the Town Council _____ these amendments on _____, 2026.

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49 **ORDINANCE**

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

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54 1. Amendment to the Virgin Municipal Code 16.8.62(C). Subsection C of Section 16.8.62 of
55 the Virgin Municipal Code (VMC) is hereby amended to read as follows:

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57 *C. SCOPE AND APPLICABILITY: No person shall commence or perform any grading,*
58 *excavation, filling, or clearing of land without first having obtained a grading permit*
59 *and ascertaining the existence of underground utilities. No grading permit shall be*
60 *issued except in connection with an allowed use in the zoning district in which the*
61 *property that is to be graded, filled, or cleared is located. Where grading is proposed*
62 *in support of a specific development, the grading permit application shall be*
63 *reviewed concurrently with, and may be conditioned upon approval of, the associated*
64 *building permit, site plan, conditional use permit, or subdivision approval. This*
65 *subsection shall not prohibit exploratory excavation, including soils test pits and*
66 *borings, undertaken to prepare studies or reports required for a pending or*
67 *anticipated development application, provided the site is restored to natural grade*
68 *upon completion.*
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- 70 2. Repealer. All Virgin Town ordinances or resolutions or parts thereof, which are in
71 conflict herewith, are hereby repealed.

- 72 3. Severability. Should any part or provision of this Ordinance be declared by the courts to
73 be unconstitutional or invalid, such decision shall not affect the validity of the
74 Ordinance as a whole or any part thereof other than the part so declared to be
75 unconstitutional or invalid.

- 76 4. Effective date. This ordinance shall take effect immediately upon adoption and posting
77 as required by law.

78 **PASSED AND ADOPTED** by the Town Council of Virgin Town, State of Utah, on the ____
79 day of _____, 20 ____.

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 Mayor	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