



To: Mayor and Town Council
From: Mark C. Meyers, Town Manager
Date: September 10, 2026
Subject: Grading Ordinance Amendment

Background

Town Council recently adopted an ordinance establishing standards for grading, excavation and earthwork. The previous ordinance had been repealed years before leaving the town without any standards. After implementation, an issue emerged that merits correction. The issue involves a procedural problem as explained in the attached report from Town Planner Ryker Steglich. In brief, the ordinance as written doesn't allow for exploratory excavation such as soil test pits and borings which often are required to determine the amount of grading required. The amended language would allow for such things prior to issuance of a permit.

The Planning Commission recommended approval of the grading ordinance amendment at their September 8, 2026, meeting. Town Council discussed the amendment at the September 9, 2026, work meeting and the consensus was to move it forward for formal consideration.

Recommendation

Staff recommends that Town Council adopt the Grading Ordinance amendment recommended by the Planning Commission at the September 10, 2026, regular meeting.

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
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 amendment allows the grading permit application to be reviewed concurrently with the associated development approval, rather than only after all other approvals are complete. Issuance of the grading permit still awaits the associated development approval, except for exploratory excavation as addressed below. This preserves the Town’s ability to tie grading to an approved project while removing the review-sequencing bottleneck and, through the exploratory-excavation exception, resolving the circular 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 within thirty (30) days of 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 the associated building permit, site plan, conditional use permit, subdivision approval, or other permit required by the Town, and no grading permit shall be issued until the associated development approval has been granted, except as provided for exploratory excavation in this subsection. This subsection shall not prohibit exploratory excavation, limited to soils test pits and borings, and to the minimum necessary to complete a study or report required for a pending or anticipated development application, provided that all disturbed areas are restored to natural grade within thirty (30) days of completion.

III. 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

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.

RECITALS

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.

48
49 **ORDINANCE**

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

- 53
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 reviewed
63 concurrently with the associated building permit, site plan, conditional use permit,
64 subdivision approval, or other permit required by the Town, and no grading permit
65 shall be issued until the associated development approval has been granted, except as
66 provided for exploratory excavation in this subsection. This subsection shall not
67 prohibit exploratory excavation, limited to soils test pits and borings, and to the
68 minimum necessary to complete a study or report required for a pending or
69 anticipated development application, provided that all disturbed areas are restored to
70 natural grade within thirty (30) days of completion.
71

Deleted: 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

Deleted: s

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Deleted: so that grading is authorized only in
conjunction with an approved use.

- 72 2. Repealer. All Virgin Town ordinances or resolutions or parts thereof, which are in
73 conflict herewith, are hereby repealed.
- 74 3. Severability. Should any part or provision of this Ordinance be declared by the courts to
75 be unconstitutional or invalid, such decision shall not affect the validity of the
76 Ordinance as a whole or any part thereof other than the part so declared to be
77 unconstitutional or invalid.
- 78 4. Effective date. This ordinance shall take effect immediately upon adoption and posting
79 as required by law.

80 **PASSED AND ADOPTED** by the Town Council of Virgin Town, State of Utah, on the ____
81 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