Virgin Town

To: Mayor and Town Council Members

From: Mark C. Meyers, Town Manager

Date: September 10, 2026

Subject: Open Space Ordinance Amendment – Federal and State Lands

## Background

In April, Town Council Approved amendments to the Open Space (OS) ordinance. The amendments included establishing prohibited uses. A second amendment included exempting federal and state lands from the use standards.

Recently, Planning Commission members have expressed concern with the exemption amendment. The concern relates to potential sale of Federal lands for undesirable uses (e.g., data centers, detention facilities, power plants and tall apartments). It also relates to recent federal legislation proposing public land sale for use the government may decide will fill a national need could include language requiring adherence to some or all types of local regulation.

Therefore, there is a desire among members to amend the OS ordinance to replace the blanket exemption language with language stating that use standards of such lands shall apply "to the fullest extent permitted by applicable law."

At the August 12, 2026, town council work meeting, the Council referred the matter to staff and the Planning Commission for a recommendation. At their September 8, 2026, meeting, the Commission recommended an amendment. The amendment was discussed at the September 9, 2026, council work meeting and the consensus of Council was to consider adoption.

A report from Town Planner Ryker Steglich with the proposed amendment is attached.

## Recommendation

Staff recommends that the Town Council adopt the Open Space Ordinance amendment recommended by the Planning Commission which revises the use exemption language related to federal and state owned lands.

# VIRGIN TOWN

**Staff Report — Proposed Ordinance No. 2026-XX — Open Space District Applicability and Location**

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**To:** Virgin Town Planning Commission / Town Council

**From:** Ryker Steglich, Town Planner, Sunrise Engineering

**Date:** August 26, 2026

**Subject:** Proposed Ordinance No. 2026-XX — Open Space District Applicability and Location (Title 16, Chapter 48; VMC §§ 48.06, 48.08)

## AT A GLANCE

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|---|---|
| **Application** | Legislative Text Amendment — Title 16, Chapter 48 (VMC §§ 48.06, 48.08) |
| **Subject** | Open Space District Applicability and Location — VMC §§ 48.06, 48.08 |
| **Prepared By** | Ryker Steglich, Town Planner, Sunrise Engineering |
| **Next Step** | Planning Commission recommendation; Town Council adoption |

## I. BACKGROUND

Title 16, Chapter 48 of the Virgin Municipal Code (VMC) establishes the Open Space District, which includes substantial acreage administered by the Bureau of Land Management (BLM) and the State of Utah within Town boundaries. The Town Council recently adopted an ordinance adding an applicability section to Chapter 48.

As adopted, that applicability section provides that the use standards, conditional use requirements, and prohibited use provisions of the Chapter *shall not apply* to lands administered by the BLM, the State of Utah, or other federal or state agencies, and treats the inclusion of those lands in the District as being for planning and mapping purposes only. That exempting language was added in response to concerns raised regarding the reach of the Open Space zone over agency-administered lands.

In reviewing that provision, staff identified a concern with the blanket exemption. If agency-administered lands within the Town are later conveyed, sold, or authorized for development by an act of Congress or other superior authority, that authorization may require adherence to some or all applicable local land use regulation. Where the Town's own ordinance has already exempted the land, the Town could be left without any regulatory standards to apply to the resulting development

— for example, to large-scale data centers, power generation facilities, detention facilities, or high-density residential structures — even where local regulation would otherwise be honored. This is a Town-initiated legislative amendment addressing that concern.

## II. DESCRIPTION OF PROPOSED ORDINANCE

Ordinance No. 2026-XX would amend and restate Section 48.06 (Applicability) and Section 48.08 (Location) of Chapter 48. The amendment does not alter the purpose, permitted or conditional uses, dimensional standards, or other substantive provisions of the Open Space District. It makes two related changes.

### A. Applicability (§ 48.06)

The amendment reverses the default rule of the adopted section. Rather than exempting agency-administered lands from the Chapter, revised Section 48.06 provides that the Chapter's use, dimensional, and density standards apply to **all lands within the District to the fullest extent permitted by law**. Where and to the extent a particular provision is preempted or precluded by superior federal or state law as applied to particular lands, that provision yields only to that extent and only for so long as the preemption is in effect, and the remaining provisions continue to apply. The section expressly disclaims any assertion of regulatory authority beyond that permitted by law and retains the "planning and mapping purposes" characterization to the extent the Town's provisions are in fact preempted.

### B. Location (§ 48.08)

The amendment restates Section 48.08 (Location) to describe the lands within the District and to add that the Chapter's provisions apply to all lands in the District to the fullest extent permitted by law, subject to Section 48.06, keeping the two sections internally consistent.

## III. FINDINGS AND RECOMMENDATION

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

**1.** The wholesale exemption of agency-administered lands in the adopted version of Chapter 48 could leave the Town without any regulatory standards to apply if those lands are later conveyed or authorized for development under conditions that require compliance with local regulation.

**2.** The proposed amendment addresses this concern by providing that the Chapter applies to all lands in the District to the fullest extent permitted by law, yielding only where and for so long as a superior federal or state law actually preempts a given provision, while the remaining provisions continue to apply.

**3.** The amendment does not assert regulatory authority beyond that permitted by law; it expressly disclaims such authority and preserves the planning-and-mapping characterization to the extent the Town's provisions are preempted.

**4.** The proposed ordinance is consistent with the purpose of Chapter 48 and with the Municipal Land Use, Development, and Management Act.

**Recommendation.** Staff recommends approval of the proposed ordinance amending VMC §§ 48.06 and 48.08, subject to any modifications directed. Staff further notes two technical corrections to complete before adoption: the lead-in sentence to the Location amendment references "§ 16.48.06" and should read § 16.48.08, and the chapter and section numbering should be confirmed against the current codification of the Open Space District.

**VIRGIN TOWN**
**ORDINANCE NO. 2026-XX**

**AN ORDINANCE AMENDING TITLE 16, CHAPTER 48 OF THE VIRGIN MUNICIPAL CODE TO REVISE SECTION 48.06 (APPLICABILITY) AND SECTION 48.04 (LOCATION) OF THE OPEN SPACE DISTRICT TO PROVIDE THAT THE PROVISIONS OF THE CHAPTER APPLY TO ALL LANDS WITHIN THE DISTRICT TO THE FULLEST EXTENT PERMITTED BY LAW.**

## RECITALS

**WHEREAS** Virgin Town ("the 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 Annotated 10-20-101 et seq., the Town Council of Virgin Town is authorized to enact land use regulations and zoning ordinances to protect public health, safety, and welfare and to promote orderly growth and development within the Town.

**WHEREAS** Title 16, Chapter 48 of the Virgin Municipal Code establishes the Open Space District, which includes lands administered by the Bureau of Land Management, the State of Utah, and other federal and state agencies within Town boundaries.

**WHEREAS** the Town has a long-standing interest in the careful stewardship of public lands within its boundaries, and finds that the wholesale exemption of such lands from the regulatory provisions of Chapter 48 could, if those lands were conveyed, transferred, or authorized for development by act of Congress or other superior authority, leave the Town without any basis to apply its use standards, density limits, and dimensional standards to the resulting development.

**WHEREAS** the Town Council finds it appropriate, rather than to exempt lands administered by federal or state agencies from Chapter 48, instead to provide that the provisions of Chapter 48 apply to all lands within the Open Space District to the fullest extent permitted by law, and yield only to the extent, and only for so long as, those provisions are actually preempted or precluded by superior federal or state law.

**WHEREAS** the Town Council acknowledges that lands presently under the jurisdiction of federal or state agencies are subject to the authority of those agencies under applicable law, and that the inclusion of such lands within the Open Space District is intended primarily for planning and mapping purposes to the extent the Town's regulatory provisions are preempted.

**WHEREAS** the Town Council finds that revising the applicability and location provisions of Chapter 48 accordingly is in the best interests of the health, safety, and welfare of the residents of Virgin Town.

**WHEREAS** the Planning and Zoning Commission held a public hearing on this ordinance on _____, 20___.

**WHEREAS** the Virgin Town Planning and Zoning Commission recommended in a __ to __ vote that the Town Council [*approve/deny*] these amendments on _____, 20___.

## ORDINANCE

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

1. Amendment and restatement of Virgin Municipal Code 16.48.06. Section 16.48.06 (Applicability) of the VMC is hereby amended and restated to as follows:

**48.06 APPLICABILITY.**

The use standards, conditional use requirements, dimensional standards, density limitations, and prohibited use provisions of this Chapter shall apply to all lands within the Open Space District, including lands administered by the Bureau of Land Management, the State of Utah, or any other federal, state, or governmental agency, to the fullest extent permitted by applicable law. Where and to the extent that any such provision is preempted or precluded by superior federal or state law as applied to particular lands, that provision shall not be enforced as to those lands for so long as, and only to the extent that, such preemption or preclusion is in effect; and the remaining provisions of this Chapter shall continue to apply to those lands and to all other lands within the District. The Town does not by this Chapter assert regulatory authority beyond that permitted by law, and the inclusion of such land within the Open Space District is, to the extent the Town's provisions are so preempted, for planning and mapping purposes only.

**Deleted:** not

**Deleted:** which are subject to the jurisdiction of such agencies under applicable federal and state law. The

**Deleted:** and shall not be construed as an assertion of regulatory authority over such lands by the Town of Virgin.

2. Amendment and restatement of Virgin Municipal Code 16.48.08. Section 16.48.08 (Location) of the VMC is hereby amended and restated to as follows:

**48.08 LOCATION**

All public lands within Virgin Town boundaries under the administration of the Bureau of Land Management or the State of Utah as of the date of adoption of this Chapter, as well as any properties subsequently rezoned to this designation. The provisions of this Chapter apply to all lands within this District to the fullest extent permitted by law, subject to Section 48.06.

**Deleted:** inclusion of such lands in

**Deleted:** is for planning and mapping purposes only

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

4. 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.

5. 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 *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*

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Krystal Percival, Town Recorder