

# VIRGIN TOWN

## ORDINANCE #2018-12

AN ORDINANCE AMENDING CHAPTER FIVE STANDARDS FOR NONCONFORMING BUILDINGS AND USES.

### RECITALS

WHEREAS, Virgin Town (“Town”) is a municipal corporation duly organized and existing under the laws of the State of Utah, particularly Title 10 of the Utah Code.

WHEREAS, Virgin Town Council (“Town Council”) is both the Town’s governing body and Land Use Authority pursuant to Utah Code § 10-9a-101 et seq.

WHEREAS, Utah Code provides for the adoption and amendment of Town Land Use Ordinances by the Land Use Authority, which in Virgin is the “Town Council with recommendation by the Planning and Zoning Commission” ; and

WHEREAS, the Virgin Land Use Authority finds that the existing Virgin Town Code (VULU) Chapter 5, and the various sub sections found within, require updating to meet the changing needs of the town; and,

WHEREAS, the Virgin Town Planning and Zoning Commission held properly noticed Public Hearings on these amendments on March 14th, 2018 and voted to recommend its draft amendment ordinance to the Virgin Town Council at a regular meeting on \_\_\_\_\_;

NOW, THEREFORE BE IT ORDAINED by the Land Use Authority of Virgin, Utah that, in order to provide for the health, safety and general welfare of the citizens of Virgin, Utah, the VULU Ordinance is hereby amended to incorporate the following changes:

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### **5.1. MAINTENANCE, REPAIR, AND RESTORATION.**

A noncomplying structure or a structure housing or containing a nonconforming use may be maintained and repaired.

**5.1.1** A noncomplying structure or a building or structure occupied by a nonconforming use which is damaged or is destroyed by fire, flood, wind, earthquake, or other calamity, may be restored and the occupancy or use of such building, structure, or portion thereof, which existed at the time of such damage or destruction, may be continued or resumed.

### **5.2. EXPANSION OF NONCOMPLYING STRUCTURE.**

A noncomplying structure shall not be enlarged unless:

**5.2.1.** A variance is obtained under VULU Chapter 3 regulations; or

**5.2.2.** The enlargements are made in conformance with all regulations of the zone in which the noncomplying structure is located; or

**5.2.3.** The following criteria are met:

**5.2.3.A.** The changes do not further increase the structures noncompliance,

**5.2.3.B.** The changes do not create an unmitigated hardship for adjoining properties,

**5.2.3.C.** The changes do not create a public safety hazard,

**5.2.3.D.** The changes have been approved by the Town's Land Use Authority at an open and public meeting.

**5.3. EXPANSION OF STRUCTURE OCCUPIED BY NONCONFORMING USE.**

A structure occupied by a nonconforming use may be enlarged if:

**5.3.1** The enlargement does not increase the nonconforming use; and

**5.3.2** The criteria of 5.2 are met.

**5.4. ONE YEAR VACANCY.**

A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of one (1) year after the use became nonconforming.

**5.4.1.** A building or structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of one (1) year, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.

**5.5. CHANGE OF USE.**

The nonconforming use of a building or structure may not be changed except to a conforming use; but once such change is made, the use shall not thereafter be changed back to a nonconforming use.

**5.6. CONTINUATION OF NONCONFORMING USE.**

A nonconforming use may be continued on the parcel of land upon which such nonconforming use has historically been made and according to the provisions of this ordinance.