

**VIRGIN TOWN**  
**ORDINANCE # 2018-\_\_\_**

**AN ORDINANCE AMENDING CHAPTERS EIGHT, TWENTY-TWO, AND THE RENUMBERING OF THE VARIOUS SUB SECTIONS FOUND WITHIN.**

**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) Chapters Eight, Twenty-Two, and the various sub sections found within, require updating to meet the changing needs of the town; and

**WHEREAS**, the Virgin Land Use Authority finds that, to accommodate the towns desire to encourage the operation and establishment of locally owned and operated businesses within Virgin Town; and

**WHEREAS**, the Virgin Town Planning and Zoning Commission held properly noticed Public Hearings on these amendments on May 9th, 2018, and voted to recommend or deny 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:

**8. 1 DEFINITION**

A conditional use is a zoning exception which allows the property owner use of his land in a way not otherwise permitted within the particular zoning district.

**8. 2 PERMIT REQUIRED**

A Conditional Use Permit is designed to allow flexibility within the zoning laws. A zoning ordinance cannot account for every situation, and exceptions such as the conditional use permit gives the zoning authority discretion to allow uses otherwise prohibited in the specific district for the benefit of the neighborhood. A conditional use permit is commonly granted to add commercial, education or religious services to residential zones.

**8.3 STANDARDS FOR CONDITIONAL USES**

No Conditional Use may be approved unless the proposed use complies with the applicable provisions of this Ordinance, State and Federal law; and the following standards that apply to all conditional uses. Any

detrimental impacts or effects from the proposed use on any of the following shall not exceed those that could reasonably be expected to arise from a use that is permitted in the district:

**8.3.1.** The health, safety, and welfare of the Town and its present and future inhabitants and businesses.

**8.3.2.** The proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood and the community.

**8.3.3.** The morals, peace and good order, comfort, convenience and aesthetics of the Town and its present and future inhabitants and businesses.

**8.3.4.** Will not exceed the obligations and/or financial capability of the Town of Virgin nor require a level of community facilities and services greater than that which is available.

**8.3.5.** Will protect environmental values by not causing air, water, light or noise pollution.

**8.3.6.** Consistent with the Town of Virgin's General Plan by complying with the minimum requirements of the Zone and will be compatible with the character of the neighborhood and surrounding structures.

#### **8.4 ADDITIONAL CONDITIONS**

The Town Council shall impose such requirements and conditions as are required by law and any additional conditions as may be necessary to ensure compliance with the requirements, standards or conditions of this Chapter. The violation of any condition, safeguard or commitment of record by the applicant shall be sufficient ground for revocation of the Conditional Use approval.

##### **8.4.1 CONDITIONS TO RUN WITH THE LAND**

Conditions imposed by the Town Council run with the permit and shall be binding on the applicant as well as their successors.

#### **8.5 STANDARDS TO BE UPHELD.**

The Town shall not issue a land use approval unless the land use authority concludes in its authorized discretion that the application, along with any imposed conditions, is likely to mitigate all identified and reasonably anticipated adverse impacts associated with the use, and is likely to comply with the following general standards for all land use, as well as any other specific standards in this zoning ordinance.

##### **8.5.1. LEGAL COMPLIANCE.**

The Town of Virgin intends for all federal, state and local laws and regulations to be followed.

##### **8.5.2 RURAL AND UNIQUE.**

The Town of Virgin plans are to continue as a small, unique, rural town, and will therefore regulate uses as follows:

**8.5.2.A** Discourage formula homes and businesses;

**8.5.2.B** Encourage diversity of business;

**8.5.2.C** Limit density of use;

**8.5.2.D** Promote small, locally owned businesses;

**8.5.2.E** Maintain existing agricultural activities and qualities such as ranching and equestrian use.

## **8. 6 APPLICATION.**

Application for a Conditional Use Permit shall be made by the property owner or developer or a certified agent on a form authorized by the Town of Virgin. The application shall initially be filed with the clerk of the Town of Virgin for review of completeness and then submitted to the Virgin Planning and Zoning Commission.

**8.6.1** Name and address of the applicant and/or manager or contact person for the applicant;

**8.6.2.** Statement that the applicant is the owner and/or the authorized agent of the property on which the use is proposed to be located;

**8.6.3** Current property ownership information necessary to satisfy notification requirements, which shall include names and addresses of all owners of property located within three (3) hundred feet of the exterior boundaries of the subject property.

**8.6.4** Plats, plans or drawings drawn to scale showing the location and dimensions of all buildings and structures, streets, vehicle circulation patterns, parking, landscape and open space areas, signs or other information as appropriate on the application. Elevation plans shall be of sufficient detail to indicate the type and color of building materials, and shall indicate materials to be employed and methods of screening provided. Preliminary landscape and irrigation plans which incorporate the landscaping requirements shall be included in the submitted plans.

**8. 6.5** Two (2) copies of a plot plan with a legal description.

**8.6.6** The present zone classification for the property.

**8.6.7** A description of the proposed project, and use of the land and the zone classification;

**8.6.8** The present zone classification for the property.

**8. 6.9** An estimate of the number of employees and the type of equipment and buildings to be used.

**8. 6.10** An estimate of the total project valuation.

**8.6.11** An estimate of the time required for construction of the project, including the time required for construction of each phase if construction is to be made in phases.

**8.6.12** A listing of all permits that may be required by state or federal agencies, with copies of such permits to be submitted to the Virgin Town Staff;

**8.6.13** A listing of all utilities which will be in place before, during and after construction.

**8.6.14** Such other pertinent information, including but not limited to proof of financial responsibility, fiscal impact analysis, professional traffic or other study, construction and excavation plans, and detailed site analysis, as may be required by the Virgin Town Planning and Zoning Commission to evaluate the application.

**8.6.15** Title evidence, in such form as the Virgin Planning and Zoning Commission may determine, indicating ownership of the property and the interest therein, shall be provided at applicants' expense at time of application.

### **8.7. BURDEN OF PROOF**

The applicant shall have the burden of providing that the proposed condition use satisfies all of the standards and conditions set forth in the Chapter.

### **8.8. PLANNING AND ZONING COMMISSION ACTION.**

The Virgin Town Planning and Zoning Commission shall make a recommendation for approval or denial of a conditional use permit to the Virgin Town Council. In recommending approval of any conditional use, the Virgin Town Planning and Zoning Commission shall consider applicable standards for review listed in VULU Chapter 8.1. and impose such regulations and conditions as are necessary to protect the public health, safety and welfare, to accomplish the purposes of the Virgin Town General Plan and this Zoning Ordinance, and to contribute to the general wellbeing of the community. If an applicant meets all requirements of the Zoning Ordinance and all conditions proposed by the Planning and Zoning Commission, the Commission shall recommend approval of a conditional use permit by the Town Council. Within sixty (60) days following the date of official submission of the application along with any conditions proposed.

Following a public hearing, the Virgin Town Planning and Zoning Commission shall record in writing the findings upon which its recommendation is based. In recommending to the Town Council the denial of a conditional use permit, the Planning and Zoning Commission shall set forth specifically in writing the reasons for recommending denial, citing supporting factual evidence, and provide the applicant and the Town Council with notice of the action. The Town Council shall approve or deny conditional use permits only after the Planning and Zoning Commission has reviewed the application and made its recommendation to the Board.

### **8.9. TOWN COUNCIL ACTION ON CONDITIONAL USE PERMITS.**

The authority to approve a conditional use permit rests solely with the Virgin Town Council. The Council shall not make its decision without first considering the recommendation of the Virgin Town Planning and Zoning Commission. The Council may affirm or reverse the recommendation of the Planning and Zoning Commission or may modify any conditions proposed by the Planning and Zoning Commission in its recommendation. The Council shall make a decision within one hundred twenty (120) days following the date it receives a recommendation from the Planning and Zoning Commission. The Virgin Town Council shall present, in writing, the reasons for its action, citing supporting factual evidence in the case of denial.

#### **8.10. INSPECTION.**

Following the issuance of a conditional use permit by the Virgin Town Council, permit holder may apply for a building permit. The building inspector, with the advice of the planning commission or zoning official, shall inspect the lot on which a conditional use permit is issued during construction of any improvements, to ensure that all improvements comply with the conditions of the conditional use permit and building permit.

#### **8.11. REVOCATION OF CONDITIONAL USE PERMIT.**

The Virgin Town Council may, after notice and hearing before the Board, revoke a conditional use permit if the applicant fails to comply with the conditions imposed upon the original approval of such conditional use permit or any amendment thereto. Permit holder shall immediately cease any use of the property which was based on the Conditional Use Permit upon receipt of notice of revocation from the Council.

##### **8.11.1 APPEAL**

If the Town Council revokes any permit under this section, the holder of the permit shall have a right to appeal the revocation of the permit. Any appeal of the Town Council's decision regarding a Conditional Use Permit application must be filed with the Town Clerk within fifteen (15) days of the decision of action by the Council, action by the applicant or any other person aggrieved by the decision or action. Upon receipt of the appeal, the Council shall set a hearing on the appeal at its next regularly scheduled meeting which is more than fifteen (15) days after the time the Town Clerk received the appeal. The Town shall supply the permit holder of the time, date and place of the hearing at least fifteen (15) days before the hearing. At the hearing, the permit holder shall have the right to be heard on the revocation.

##### **8.11.2 EXPIRATION**

Furthermore, the Virgin Town Council may revoke, null or void a conditional use permit one (1) year after issuing the permit unless, in the judgment of the Town Council, substantial work shall have been accomplished toward the implementation of the conditional use or unless otherwise specified in the action granting a Conditional Use Permit.

##### **8.11.3 EXTENSION**

Action authorized by a Conditional Use Permit must commence within one (1) year of the time the permit is issued. If the permit holder has not commenced action under the permit within this time, the permit shall expire and the holder must apply for a new permit. The planning commission may grant an extension for good cause shown. Only one extension may be granted and the maximum extension shall be six (6) months. In order to obtain an extension, the permit holder must apply in writing before the expiration of the original permit. Application describing the cause for requesting the extension must be submitted to the Town Clerk.

#### **8.11.4 SUSPENSION**

The Town Council may suspend a Conditional Use Permit following notice and a public hearing. A Conditional Use Permit may be suspended if the Town Council finds one or more of the following:

**8.11.4.A.** The permit was obtained by misrepresentation or fraud;

**8.11.4.B.** The conditions imposed upon said use permit have not been met; or

**8.11.4.C.** The detrimental effects of the use are not substantially mitigated by the conditions and no modification or substitution of said conditions will serve to substantially mitigate such detrimental effects.

#### **8. 12. EXPANSION OF A CONDITIONAL USE.**

No conditional use may be expanded without the approval of a new conditional use permit.

#### **8.13. LIMITED COMMERCIAL HABITATION**

##### **8.13.1. PURPOSE.**

The purpose of Limited Commercial Habitation (LCH) is to facilitate the successful establishment of small locally owned businesses, by allowing for living quarters on a commercial lot. that is not necessitated by the size and nature of The LCH does not establish residential use in a commercial zone unless the residents is directly associated with the business to which it is attached.

##### **8.13.2. PROCEDURE.**

Applications for a LCH Permit shall be submitted to the Planning & Zoning Commission for approval

##### **8.13.3. ELIGIBILITY.**

**8.13.3.A.** Only the owner, proprietor, or operator of an approved business can be granted a LCH Permit.

**8.13.3.B.** Only the LCH permit holder and immediate family members (see VULU Chapter 1.6. Definition of family) may occupy the living quarters.

**8.13.3.C.** The living quarters must be entirely incidental to an approved business.

##### **8.13.4. LIMITATIONS AND REQUIREMENTS.**

**8.13.4.A.** The living quarters must be wholly within or attached to a commercial building.

**8.13.4.B.** A maximum of one (1) permit for one (1) living quarter may be granted on a commercial lot.

**8.13.4.C.** Living quarters are not to be rented, and no compensation may be exacted for privileges of occupancy of the living quarters.

**8.13.4.D.** Living quarters may not be used in any manner that violates Utah state, or Federal labor laws.

**8.13.4.G.** Renewed LCH permits are effective until the holder alters the agreement, the permit is revoked pursuant to 8.11.6.C, or the use is abandoned for one (1) year.

#### **8.13.5. MODIFICATIONS.**

**8.13.5.A.** The Virgin Planning & Zoning Commission may modify a LCH Permit to include reasonable conditions or limitations necessary to protect the public interest including:

**8.13.5.A.i.** Interior or exterior physical buffers, vents, or firewalls to isolate the living quarters from supplies, equipment, or activities likely to exist in or arise from the approved business;

**8.13.5.A.ii.** Additional parking or screening;

**8.13.5.A.iii.** Time limitations appropriate to the circumstances (i.e.: seasonal use, or a cessation of the need for the residential use).

**8.13.5.B.** At the discretion of the Planning & Zoning Commission, the floor plan may be altered to accommodate a family as defined in VULU Chapter 1.6., Definition of Family.

#### **8.13.6. ENFORCEMENT.**

**8.13.6.A.** LCH permits are valid from the date of approval until the holder alters the agreement, the permit is revoked pursuant to 8.11.6.C, or the use is abandoned for one (1) year. The Zoning Administrator shall conduct investigations in response to written complaints or at the direction of the Planning & Zoning Commission or Town Council to ensure all standards of this Chapter is being upheld.

**8.13.6.C.** In the case of a failure to comply with one (1) or more of the provisions of this Chapter, the permit holder will be given at least thirty (30) days to bring living quarters into compliance. If the quarters are not brought into compliance the LCH permit may be withdrawn by a majority vote of the Planning & Zoning Commission, after a hearing to review the information.

**8.13.6.D.** If use is altered from that approved permitted in accordance with this Chapter, abandoned for one (1) year, or has not been established within one (1) year after the date granted, the permit shall be null and void.

#### **8.13.7 Appeal**

All decision may be appealed through process as defined in VULU Chapter 3.

## **Chapter 22 Highway Resort Zone**

### **22.5.18. LIMITED COMERCIAL HABITATION. (See VULU Chapter 8.13)**