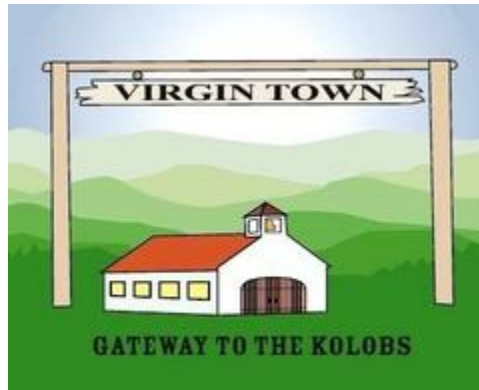




VIRGIN TOWN

REFERENDUM INFORMATION

PAMPHLET

**For The Proposed Referendum of
Virgin Ordinance 2020-23**

**TO BE CIRCULATED WITH
REFERENDUM PETITION
SIGNATURE SHEETS**

Compiled by
Monica Bowcutt, Virgin Town Recorder

VIRGIN TOWN

114 S Mill Street, PO Box 790008
Virgin, UT 84779
(P) 435-635-4695 (F) 435-635-0265

TABLE OF CONTENTS

<u>TITLE</u>	<u>BEGINNING PAGE</u>
Referendum Application	3
Virgin Ordinance 2020-23	14
Argument “For” The Proposed Referendum	16
Argument “Against” The Proposed Referendum	17
Initial Fiscal Impact Estimate	18
Initial Legal Impact Estimate	20

RECEIVED
SEP 01 2020

BY: *Monica Boutt*

REFERENDUM PACKET

HRZ Is Not the Answer

Packet # _____

RECEIVED
SEP 01 2020

BY: M. Bowcutt

REFERENDUM PETITION

To the Honorable Monica Bowcutt, Town Clerk of Virgin, Utah:

We, the undersigned citizens of Utah, respectfully order that Ordinance #2020 23, An Ordinance Amending VULU Chapter 44.06. Location (attached hereto), passed by the Virgin Town Council on August 26, 2020 be referred to the voters for their approval or rejection at the regular/municipal general election to be held on November 2, 2021;

Each signer says:

1. I have personally signed this petition;
2. The date next to my signature correctly reflects the date that I actually signed the petition;
3. I have personally reviewed the entire statement included with this packet;
4. I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk;
5. My residence and post office address are written correctly after my name.

<u>Paul Luwe</u> <u>8/31/20</u> Paul Luwe 439 N 300 E PO Box 790088 Virgin, UT 84779 Date	<u>Adele Pincock</u> <u>8/31/20</u> Adele Pincock 80 N Kaleb Terrace Road PO Box 790116 Virgin, UT 84779 Date
<u>Lori Rose</u> <u>8/31/2020</u> Lori Rose 83 E 100 S PO Box 79044 790044 Virgin, UT 84779 Date	<u>April McKeon</u> <u>8/31/2020</u> April McKeon 168 S. Rulon Road PO Box 790235 Virgin, UT 84779 Date
<u>Linda Collet</u> <u>8/31/20</u> Linda Collet 265 S. Redhill PO Box 790208 Virgin, UT 84779 Date	

Lorinda

Sponsor Statement

I, Linda Collet

Name of Sponsor (please type or print)

P.O. Box 790208 Virgin
265 S. Redhill Ln

Residence & Mailing Address 84779

Virgin, UT 84779

City, State, Zip

affirm that I am a resident of Utah and I have voted in a regular municipal election in Utah within the last three years.

Linda Collet

Sponsor's Signature

480-231-9069

Phone Number

Notary Seal



KATY TAYLOR BROWN
NOTARY PUBLIC - STATE OF UTAH
My Comm. Exp 07/19/2021
Commission # 696410

Subscribed and affirmed before me this 31 day of August 2020.

[Signature]

Notary Public

My commission expires 7/19/2021

Sponsor Statement

I, APRIL MCKEON

Name of Sponsor (please type or print)

168 KULON RD P.O. 790235

Residence & Mailing Address

affirm that I am a resident of Utah and I have voted in a regular municipal election in Utah within the last three years.

April Mck

Sponsor's Signature

VIRGIN UT 84773 435-691-2827

City, State, Zip

Phone Number

Notary Seal



KATY TAYLOR BROWN
NOTARY PUBLIC - STATE OF UTAH
My Comm. Exp 07/19/2021
Commission # 696410

Subscribed and affirmed before me this 31 day of AUGUST 2020.

[Signature]

Notary Public

My commission expires 7/19/2021

Sponsor Statement

I, Paul Luwe

Name of Sponsor (please type or print)

439 N 300 E, PO Box 790098

Residence & Mailing Address

affirm that I am a resident of Utah and I have voted in a regular municipal election in Utah within the last three years.

Paul Luwe

Sponsor's Signature

Virgin, UT 84779 406-570-8983

City, State, Zip

Phone Number



KATY TAYLOR BROWN
NOTARY PUBLIC - STATE OF UTAH
My Comm. Exp 07/19/2021
Commission # 696410

Subscribed and affirmed before me this 31st day of August 2020.

[Signature]

Notary Public

My commission expires 7/19/2021

Sponsor Statement

I, ADELE PINCOCK

Name of Sponsor (please type or print)

80 N POCKETVILLE RD.

P.O. BOX 790116

Residence & Mailing Address

VIRGIN UT 84779

City, State, Zip

435-817-2088

Phone Number

affirm that I am a resident of Utah and I have voted in a regular municipal election in Utah within the last three years.

Adele Pincock

Sponsor's Signature



Subscribed and affirmed before me this 31st day of August 2020.

[Signature]

Notary Public

My commission expires 7/19/2021

Sponsor Statement

I, Lorinda Rose

Name of Sponsor (please type or print)

83E 100S

PO Box 790044

Residence & Mailing Address

Virgin UT 84779

City, State, Zip

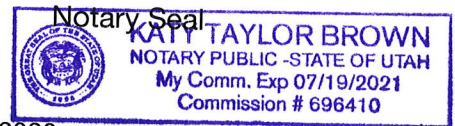
435-703-4846

Phone Number

affirm that I am a resident of Utah and I have voted in a regular municipal election in Utah within the last three years.

Lorinda Rose

Sponsor's Signature



Subscribed and affirmed before me this 31st day of August 2020.

[Signature]

Notary Public

My commission expires 7/19/2021

HRZ Is Not The Answer

Recently the Virgin Town Council passed an ordinance making a remote 640-acre block of private land on Sheep Bridge Road (south of the river beyond the limestone quarry) eligible for the Highway Resort Zone (HRZ hereafter) to accommodate a proposal for an innovative hiking-biking-camping style business on part of this square mile of land. Perhaps this seemed an easy solution because the only zones in Virgin Town's current ordinance which clearly permit commercial camping are the Highway Resort and Resort Zones. However, this business and others like it beg for creating a new zone tailored to the growing recreation industry while protecting the qualities that make this unique area the place recreation-based tourists want to be. It's away from town, quiet, and the night sky is amazing. HRZ is not the answer.

The HRZ Zone was designed to accommodate exceptionally large buildings, busy commercial activity, a large variety of businesses including hotels, restaurants, health spas, retail, and gas stations. It was located on the east end of town, mostly along SR-9, to minimize impacts to existing residential areas, while commercial uses elsewhere in town were envisioned to be smaller to be compatible with Virgin's rural character.

How big is 640 acres, a square mile of land? For comparison, it is equivalent in area to ALL the private property north and south of the highway between 700 West and Pocketville Road. The Town Council thought only a few properties in this block would be eligible for a zone change since it requires frontage on Sheep Bridge Road, but actually 560 of the 640 acres have direct frontage, and the other 80 acres would have frontage if acquired by an adjoining landowner.

The adopted ordinance expands the area eligible for the HRZ zone and deletes all the language describing the characteristics of locations appropriate for the zone. Rather than creating an opportunity for an exciting new commercial business, the broad brush approach adopted by the Town Council risks creating a satellite city in the desert, opening up a large area in Virgin's southwest viewscape to major commercial activity and night sky impacts once Sheep Bridge Road is paved..

The Town Council acknowledged it will take time for any business to move forward in this area of town. Infrastructure improvements, including waterlines and electrical service, need to be extended. The properties are located the same 2-mile distance from both SR-9 and SR-59; the costs to the developer will be significant. Let's use the available time to develop a new zone that caters to recreational business and uses, especially on remote properties, while still protecting our night skies and the fabric of our community. Instead of shoehorning something new into an incompatible zone, create a zone that takes advantage of existing uses on adjoining public lands, without opening up the area to all the uses allowed in HRZ zoning.

HRZ is not the answer...a new project-specific Recreation Zone tailored for such businesses is.

HRZ IS NOT THE ANSWER

WARNING

It is a class A misdemeanor for an individual to sign a referendum petition with any other name than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign a referendum petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.

For Office Use Only	Registered Voter's Printed Name (must be legible to be counted)	Signature of Registered Voter	Date Signed	Street Address, City, Zip Code	Birth Date or Age (Optional)
	By signing this petition, you are stating that you have read and understand the law this petition seeks to overturn				
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Verification

State of Utah, County of Washington

I, _____, of _____, hereby state that:

- I am a resident of Utah and am at least 18 years old;
- All the names that appear in this referendum packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;
- I did not knowingly make a misrepresentation of fact concerning the law this petition seeks to overturn;
- I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

(signature and date)

VIRGIN TOWN

ORDINANCE # 2020-23

AN ORDINANCE AMENDING VULU CHAPTER 44.06, LOCATION

RECITALS

WHEREAS, Virgin Town (“Town”) is an incorporated municipality duly organized under the laws of the State of Utah;

WHEREAS, the Town is authorized pursuant to Utah Code Annotated, Title 10, Chapter 9A, to enact ordinances necessary or appropriate for the use of land within the Town’s municipal boundaries;

WHEREAS, pursuant to Utah Code Annotated, Title 10, Chapter 3b, Section 301, the Virgin Town Council (“Town Council”) is designated as the governing body of the Town.

WHEREAS, the Town wishes provide clarity to ordinances and allow for conditional use of food trucks.

WHEREAS, the Town, by and through its Town Council, has determined that it is in the best interests of the health, safety and general welfare of the Town and its residents to expressly allow the use of food trucks in commercial zones located within the Town boundaries.

ORDINANCE

NOW THEREFORE be it ordained by Virgin Town, Washington County, State of Utah, acting by and through the Town Council amend VULU as follows:

44.06 LOCATION

A. The Highway Resort Zone designation is available to parcels or portions of parcels that:

1. Directly front SR-9 and are located east of 295 East to the eastern town boundary;
2. Directly front Kolob Terrace Road and are located east of the western quarter section line of T41S R12W Section 23, under the condition that all access to property zoned HRZ shall be from Kolob Terrace Road, with no ingress or egress from Pocketville Road.
3. Lie within the area from grid line 700 E to the furthest east and south town boundary.
4. Fronting sheep’s bridge road South of the Virgin River.

VIRGIN TOWN

1. Severability. If any section, clause or portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.
2. Conflicts/Repealer. This Ordinance repeals and supersedes the provisions of any prior ordinance in conflict herewith.
3. Effective Date. This Ordinance shall become effective immediately upon adoption by the Virgin Town Council and execution by the Virgin Town Mayor.

ADOPTED AND APPROVED BY THE VIRGIN TOWN COUNCIL ORDINANCE # 2020-23 will become effective on this 26th day of August, 2020 based upon the following vote:

Council Member:

Gene Garate		AYE <u>X</u>	NAE ____
LeRoy Thompson		AYE <u>X</u>	NAE ____
Kevin Stout	<i>absent</i>	AYE ____	NAE ____
Jay Lee		AYE <u>X</u>	NAE ____
Matthew Spendlove, Mayor		AYE <u>X</u>	NAE ____

VIRGIN TOWN

a Utah municipal corporation

Matthew Spendlove

Matthew Spendlove, Mayor

ATTEST:

Monica Bowcutt

Monica Bowcutt, Town Clerk

ARGUMENT “FOR”
THE PROPOSED REFERENDUM TO REPEAL ORDINANCE 2020-23

HRZ Is Not the Answer

Recently the Virgin Town Council passed an ordinance making a remote 640-acre block of private land on Sheep Bridge Road (south of the river beyond the quarry) ELIGIBLE for Highway Resort Zone (HRZ hereafter), to accommodate a proposal for an innovative hiking-biking-camping business on part of this square mile of land. Perhaps THIS FIRST ENABLING STEP seemed an easy solution because the only zones in Virgin's current ordinance which clearly permit commercial campgrounds are Highway Resort and Resort Zones. However, this business and others like it beg for creating a new zone tailored to our own growing recreation industry while protecting the qualities that make this unique area THE place recreation-based tourists want to be. It's away from town, quiet, and the night sky is amazing. HRZ is not the answer.

HRZ was designed to accommodate exceptionally large buildings, busy commercial activity, a large variety of businesses including hotels, restaurants, spas, retail, and gas stations. It was located on the east end of town, mostly along SR-9, to minimize traffic/noise/light impacts to residential areas. Unfortunately, the ability to achieve the original vision of quality design and village-character—near the river buffered by greenspaces to mitigate higher density—has been made impossible by the council's wholesale deletion of ordinance provisions for design standards and open space. “Campgrounds” is a recently added use to allow RV parks. In HRZ there remain few restrictions to protect the character of town.

How big is 640-acres, a square mile of land? It is equivalent to ALL private property north and south of SR-9 between 700 West and Pocketville Road. The Town Council claims only four properties would be eligible for HRZ since it requires frontage on Sheep Bridge Road, but thanks to identical adjoining ownership, 560 of 640-acres have frontage, and the other 80-acres would have frontage if acquired by an adjoining landowner.

The Council's ordinance expands the area eligible for HRZ and deletes important guiding language describing characteristics of appropriate locations for the zone. ONCE ELIGIBLE, REZONING IS EASY TO ACHIEVE AND DIFFICULT TO CHALLENGE. The approach adopted by the Town Council risks creating a satellite city in the desert, opening up a large area in Virgin's southwest viewscape to major commercial activity and night sky impacts.

The Town Council acknowledged it will take time for any business to move forward in this area of town. Water and electric service need to be extended 2-miles. The costs to the developer and town will be significant.

There is time to contemplate and develop an innovative new zone that encourages recreation-focused businesses to create something very special for this popular area, while protecting our night skies and the fabric of our community. It has potential to be an economic boon to our community if done thoughtfully!

Making this area eligible for HRZ is like killing the goose that lays the golden egg. **This decision will drastically impact the future of Virgin and deserves input of everyone via a referendum vote.**

ARGUMENT “AGAINST” THE PROPOSED REFERENDUM TO REPEAL ORDINANCE 2020-23

Virgin Ordinance 2020-23 does 2 things. First, it amends VULU §44.6 to expand the geographical eligibility area for the HRZ Zone to include areas south of the Virgin River which abutting Sheep Bridge Road. Second, it amends VULU §44.6 to eliminate the requirement that geographically eligible property must also have certain vague and subjective physical characteristics in order to qualify. The Ordinance only makes certain property ELIGIBLE; it DOES NOT rezone any property. Any inference in the Referendum Application that additional property will be re-zoned is speculative at best.

Contrary to the Sponsors’ allegations, the Ordinance only makes 4 parcels (241 acres) of private land eligible to apply for re-zoning (not 560 acres). The closest eligible parcel is 2 miles away from any residential development. Between the closest parcel and the closest residential development is the River, large swaths of BLM land and over 400 acres of land subject to conservation easements prohibiting development. The residential developments are all closer to Fort Zion/Buffalo Trails/The Balcony/Stout Trail Rides/Weeping Buffalo/Red Coyote/Post Office Sandwich Shop/Jacobs Ranch and the RV Park than the newly eligible parcels. The distance to newly eligible parcels, coupled with the building height and lighting restrictions of the Town, ensures that any future development in the newly eligible area be low-lying and non-intrusive.

In the Referendum Application, the Sponsors don’t appear to be opposed to the type of uses interested parties have proposed for the area (hiking-biking-camping and other recreational related uses), rather they advocate the Town should create a new zone “tailored to the growing recreation industry”. The Town is looking for ways to eliminate zones, NOT create additional zones. The Town’s size and population do not justify adding separate zones for each potential scenario that “might” come to fruition. Furthermore, the HRZ Zone specifically contemplates uses such as “trails”, “outfitting/guiding services” and “campgrounds”. So, to say that the HRZ Zone was intended for uses primarily involving “exceptionally large buildings” like “hotels”, “restaurants”, “retail” stores and “gas stations” is a gross mischaracterization. In fact, the first stated purpose of the HRZ Zone is to “allow for and regulate development of tourist-based uses in a green and open setting.” Likewise, another provision of the HRZ Zone states “recreational and seasonal activities are a valuable and logical use...” Providing areas for recreational activities on property located away from Virgin proper would be beneficial to all and would help relieve the pressure of visitors camping/recreating on BLM property near residential developments. BLM campers/visitors have very little oversight and are trashing the land. Business owners are more likely to maintain their investment by keeping their recreational and camping areas clean and attractive.

Lastly, the physical characteristics eligibility requirements eliminated by the Ordinance were vague, subjective and the attempted enforcement of such could cause the Town to come under scrutiny if legally challenged. What constitutes “developments that blend into rather than dominate the natural environment” or “sufficiently separated” and several other amorphous

terms is unclear, undefined, and incapable of being consistently applied and was therefore eliminated.

**INITIAL FISCAL IMPACT ESTIMATE FOR
THE PROPOSED REFERENDUM TO REPEAL ORDINANCE 2020-23**

The Referendum Application proposes to overturn an ordinance (Virgin Ordinance 2020-23) which amended Chapter 44, Section 06 of the Virgin Uniform Land Use Ordinances (“VULU”) as to what areas or locations within the Town are eligible to be re-zoned or annexed into the Town’s Highway Resort Zone (“HRZ Zone”). Specifically, Virgin Ordinance 2020-03 made property adjacent to Sheep Bridge Road that are located south of the Virgin River eligible for participation in the HRZ Zone beyond those areas within the Town already eligible. Virgin Ordinance 2020-23 did not effectively change any properties zoning designation or re-zone any property in the expanded eligibility area to HRZ. Likewise, Virgin Ordinance 2020-23 eliminated, in its entirety, Subsection B of Chapter 44, Section 06. Subsection B contained vague and subjective physical characteristic requirements that a property must be possess before eligibility to participate in the HRZ Zone is deemed exists. Because Ordinance 2020-23 expands and relaxes eligibility for future participation in the HRZ Zone, it is estimated that should the requested referendum occur, and regardless of whether it is successful or not, the outcome will have a very small immediate fiscal impact on the Town and its residents. The only quantifiable immediate fiscal impact is that the Town will incur limited costs and expenses in connection with the certifying and processing of the Referendum Application and signature petition and conducting the special election. It is estimated that these costs and expenses to be approximately Fifteen Thousand Dollars (\$15,000.00).

Estimations as to the long term fiscal impact on the Town and its residents is much more speculative and hard to quantify because expanding and relaxing the eligibility for future participation in the HRZ Zone does not necessarily mean that property owners within the expanded geographical eligibility area or areas already within the existing geographical eligibility area will actually re-zone their property to the HRZ Zone. Because the HRZ Zone conditionally allows uses other than the Town’s predominantly residential and agricultural uses - uses such as hospitality (hotel/motel), retail, restaurants and recreational, there is the possibility that the Town might generate additional revenue in the form of increased sales tax, transient room tax, property tax, RAP tax, municipal energy tax, franchise fees and state road funds (gas tax). However, the amount, if any, of additional revenue or beneficial fiscal impact to the City and its residents is dependent on what newly eligible parcels actually re-zone to the HRZ Zone in the future whether actual development on those parcels occur.

Accordingly, pursuant to Utah Code Ann. §20A-7-602.5(2) the Town estimates the following:

1. *The dollar amount representing the total estimated fiscal impact of repealing Virgin Ordinance 2020-23:*

Answer: Initially - \$15,000.00, Long Term – Unknown.

2. *If repealing Virgin Ordinance 2020-23 would increase or decrease taxes, a dollar amount representing the total estimated increase or decrease for each type of tax that would be impacted by Virgin Ordinance 2020-23's repeal and a dollar amount representing the total estimated increase or decrease in taxes that would result from the law's repeal:*

Answer: Because Virgin Ordinance 2020-23 amends an existing zoning ordinance. The effect of the law's repeal would be to revert back to the existing eligibility/location requirements under VULU 44-06(A) and (B) and thus there would be no increase or decrease in the present taxes charged by the Town, Washington County and the State of Utah.

3. *If repealing Virgin Ordinance 2020-23 would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt that would result:*

Answer: No. Repealing Virgin Ordinance 2020.23 would not result in the issuance or change in status of any bonds, notes or other debt instruments and would not result in the increase or decrease in any public debt of the Town.

4. *A listing of all sources of funding for the estimated costs that would be associated with the law's repeal, showing each source of funding and the percentage of total funding that would be provided from each source:*

Answer: The Town's general fund would be the source of 100% of the funding for the \$15,000.00 of initial estimated cost to process the referendum and conduct the Special Election.

5. *A dollar amount representing the estimated costs or savings, if any, to state and local government entities if the law were repealed:*

Answer: None.

**INITIAL LEGAL IMPACT ESTIMATE FOR
THE PROPOSED REFERENDUM TO REPEAL ORDINANCE 2020-23**

As required by Section 20A-7-602.5(2) of the Utah Code Annotated, the attorney for Virgin Town (the “Town”) has prepared the following estimate of the legal impacts of repealing Virgin Ordinance 2020-23 by referendum.

The Referendum Application proposes to overturn or repeal an ordinance (Virgin Ordinance 2020-23) which amended Chapter 44, Section 06 of the Virgin Uniform Land Use Ordinances (“VULU”) as to what areas or locations within the Town are eligible to be re-zoned or annexed into the Town’s Highway Resort Zone (“HRZ Zone”). Specifically, Virgin Ordinance 2020-03 made property adjacent to Sheep Bridge Road that are located south of the Virgin River eligible for participation in the HRZ beyond those areas within the Town already eligible. Virgin Ordinance 2020-23 did not effectively change any properties zoning designation or re-zone any property in the expanded eligibility area to the HRZ Zone. Likewise, Virgin Ordinance 2020-23 eliminated, in its entirety, Subsection B of Chapter 44, Section 06. Subsection B contained vague and subjective physical characteristic requirements that a geographically eligible property must possess before eligibility to participate in the HRZ Zone is fully deemed to exist. Essentially Virgin Ordinance 2020-23 expanded and relaxed eligibility for future participation in the HRZ Zone.

Pursuant to Utah Code Ann. §20A-7-602.5 it is estimated that the following legal impacts would result from repealing Virgin Ordinance 2020-23:

1. *Significant effects on a person's vested property rights:*

Answer: None. No re-zone applications or other land use entitlement requests have been granted by the Town on eligible properties in reliance on Virgin Ordinance 2020-23 since it was adopted.

2. *Significant effects on other laws or ordinances:*

Answer: None. See summary explanation below.

3. *Significant legal liability the Town or Washington County may incur:*

Answer: None.

4. *Other significant legal impact as determined by the Town’s budget officer and the Town’s Attorney:*

Answer: None.

SUMMARY

In summary, repealing Virgin Ordinance 2020-23 will have no direct legal effect on the Town, its residents, its ordinances, and Washington County because Virgin Ordinance 2020-23 simply amends an existing land use ordinance of the Town. On September 21, 2020, the Virgin Town Clerk declared the referendum application to be sufficient. Pursuant to Utah Code Ann. §20A-7-601(5)(b) Virgin Ordinance 2020-23 is therefore deemed to have not yet taken effect. Pursuant to Utah Code Ann. 20A-7-611, if Virgin Ordinance 2020-23 is rejected then it is deemed repealed and will have never taken effect. In that instance, the current language of VULU §44.06 will remain in effect.