

Date: 3/17/21
Name of preparer: Gene Garate
Contact information of preparer: zoningadministrator@virgin.utah.gov
Reason for Change: This section does not pertain to Land Use, but deals exclusively with the disturbance of public works. It has been added to the Public Works Standards, and needs to be removed from Land Use.
Current: <u>2.18 EXCAVATION PERMIT REQUIRED</u> 1. PERMIT REQUIREMENTS 1. Required. It shall be unlawful for any person to break, excavate, tunnel, undermine in any manner affect the surface or base of any street or to place, deposit or leave upon any street any earth or any other excavated material obstructing or tending to interfere with the free use of the street, unless such person shall first have obtained an excavation permit therefore from authorized personnel of the Town. 2. Streets and Sidewalks 1. No person shall make an excavation in any street, land or alley or remove any pavement or other material from any street or improvement thereon without first obtaining a permit from authorized personnel of the Town. 2. No person shall excavate any sidewalk without first obtaining a permit from authorized personnel of the Town. 3. Contamination Control. It shall be the contractor's responsibility to control dust and contaminants within the boundaries of the project. Roads must be kept clear of debris, dust and contamination daily (minimum). 4. Franchise; Public Utility 1. Nothing in this Chapter shall be construed to waive the franchise required for any person by Town ordinances or laws of Utah. 2. Any public utility regulated by the State or holding a franchise from the Town which, in the pursuit of its calling, has frequent occasion to open or make excavations in streets, may, upon application, receive a general permit from the Town to cover all excavations such utilities may make within the streets of the Town. 2. BOND REQUIRED 1. Conditions. In order to ensure proper backfill and restoration of surface, the permittee shall deposit a surety bond or cash deposit with the Town Clerk, payable to the Town. Such bond or cash deposit will be held by the Town for a period of twelve (12) months. Except that a public utility operating or using any of the streets under a franchise from the Town will not be required to furnish such bond, providing such franchise obligates the holder thereof to restore the streets and to hold the Town harmless in the event of any injury to any person or damage to any property due to negligence of such holder in conducting excavation and restoration operations under such franchise. The required surety bond must be: 1. With good and sufficient surety. 2. By a surety company authorized to transact business within the state. 3. Satisfactory to the Town attorney in form and substance.

4. Conditioned upon the Permittee's compliance with this Chapter in order to secure and hold the Town harmless against any and all claims, judgments or other costs arising from the excavation and other work covered by the excavation permit for which the Town, the Town Council or any other Town officer may be made liable by reason of any accident or injury to any person or property through the fault of the Permittee arising out of failure to properly guard the excavation or for any other negligence of the Permittee.
 5. Conditioned to fill up, restore and place in good and safe condition, as near as may be to its original condition, and to the satisfaction of the Town, all openings and excavations made in the streets, and to maintain any street where excavation is made in as good condition for the period of twelve (12) months after the work shall be done, usual wear and tear excepted, as it was before the work shall have been done.
 2. Amount. The amount of the surety bond or cash deposit shall be established by resolution and may be changed from time to time, but until such resolution is passed the amount of the surety or cash deposit shall be one thousand dollars (\$1,000.00) and ten dollars (\$10.00) for each street the permittee shall excavate.
3. SUBJECT AND EXCLUDED EXCAVATIONS
 1. Types subject to Provisions. The types of excavations subject to the provisions of this Chapter are excavations for installation or repair of water lines, sewer lines, gas lines, electrical cable and conduits, telephone cable and conduits, and all other excavations for any other purpose within the street rights of way of the Town or in other public places.
 2. Types not subject to Provisions. The types of excavations which do not come within the scope of this Chapter are excavations of any kind in streets in projects designed, contracted for and inspected by the Town Engineer or other authorized personnel of the Town. (See Utah Uniform building Standard appendix A.)
4. STANDARDS
 1. Preparation. The pavement, sidewalk, driveway or other surface shall be cut vertically along the lines forming the trench in such a manner as to not damage the adjoining pavement or hard surfacing. An undercut bevel at the rate of one inch (1") per foot of thickness will be provided at the proposed junction between the old and new surfaces. The portion to be removed shall be broken up in a manner that will not cause damage to the pavement outside the limits of the trench. However, any pavement damaged by operations outside the limits of the trench shall be replaced. All waste materials resulting from the excavation shall be removed immediately from the site of the work.
 2. Backfill
 1. Materials. Materials for backfill will be of select. All broken concrete, peat, decomposed vegetable matter and similar materials obtained from excavation will be removed from the site prior to beginning of backfilling. All backfill will be placed in layers not over eight inches (8") loose measure in thickness. Compaction will be obtained by mechanical rollers, mechanical tampers or similar means. Material for backfilling will have optimum moisture to ensure compaction to a degree equivalent to that of the undisturbed ground in which the trench was dug. Jetting or internal vibrating methods of compacting sand or similar granular-free draining materials will be permitted. No rock of any kind to be used as backfill. No pea gravel shall be used as backfill on city streets unless specified or approved by the Town Engineer.
 2. Density. The density (dry) of the backfill under pavements, sidewalks, curbs or other surfaces will not be less than 95%. The fill shall be restored and placed in a good condition which will prevent settling.
 3. Restoration of Hard Surfaces

1. General. All street surfacing, curbs, gutters, sidewalks, driveways or other hard surfaces falling in line of the excavation which must be removed in performance of the work shall be restored in kind by the excavator, unless otherwise directed by the Town Council, in accordance with the specifications contained herein governing the various types of surfaces involved.
2. Protection of Paved Surfaces. In order to avoid unnecessary damage to paved surfaces, track equipment shall use pavement pads when operating on or crossing paved surfaces.
3. Time. In traffic lanes of paved streets, the excavator shall provide temporary gravel surfaces or cold mulch in good condition immediately after backfill has been placed, and shall complete permanent repairs on the street, sidewalk, curb, gutter, driveway and other surfaces, within five (5) days from the date of completion of the backfill, except for periods:
 1. when permanent paving material is not available;
 2. when weather conditions prevent permanent replacement;
 3. when an extension of time is granted by the Town Engineer.
4. Temporary Repair. If temporary repair has been made on the paved street with gravel and a permanent repair cannot be made within the time specified above due to any of the above-mentioned conditions, then the excavator shall be required to replace the gravel with cold mulch as soon as possible.
4. Restoring Bituminous; Concrete or Asphalt Street Surfaces
 1. Temporary Grade Surfaces. Where excavations are made in paved areas, the surface shall be replaced with a temporary road base surface. The road base shall be deep enough to provide a minimum of six inches (6") below the bottom of the bituminous or concrete surface. Normally, this will require nine inches (9") of road base for bituminous surfaces, twelve inches (12") of road base for concrete, and concrete base for asphalt-wearing surfaces. The road base shall be placed in the trench at the time it is backfilled. The temporary road base surface shall be maintained by blading, sprinkling, rolling, adding road base, to maintain a safe, uniform surface satisfactory to the Town Engineer until the final surface is laid. Excess material shall be removed from the premises immediately. Material for use on temporary road base surfaces shall be obtained from the sound, tough, durable gravel or rock meeting the following requirements for grading:

Passing 1 inch (1") sieve	100 per
Passing 3/4 inch (3/4") sieve	85-100 p
Passing #4 sieve	45-65 p
Passing #10 sieve	30-50 p
Passing #200 sieve	5-10 per

2. Bituminous Surface. The exposed edges of existing pavement shall be primed with Type MC-1 bituminous material. The type, grade and mixture of the asphalt to be used for street surface replacement shall be approved by the Town Engineer. The thickness shall be equal to the adjacent surface thickness but not less than three inches (3"). The complete surface shall not deviate more than one-half inch (½") between old and new work.
3. Policy.
 1. When a street has been newly improved, there will be a "no cut" policy in force that will not allow new asphalt to be cut to install utilities or for other reasons for a period of two (2) years. After the two (2) year period, all cuts must meet the following standards:
 1. flow-able backfill one (1) bag mix in trench (at Town's discretion);
 2. minimum patch width two foot (2') each side of trench;
 3. saw-cut edges of patch;
 4. patch must be hot mix (cold mix may be used temporarily if hot mix cannot be obtained, then removed and replaced with hot mix when it is available);
 5. patch shall be three inches (3") asphalt over nine inches (9") granular base meeting town standards;
 6. seal the saw cut edges with a rubberized crack fill material.
 2. Exceptions to the "no cut" policy during the first two (2) years may be made on a case by case basis. The following standards will apply where exceptions are granted:
 1. flow-able backfill (one (1) bag mix) in trench (at Town's discretion);
 2. minimum patch width - two foot (2') each side of trench;
 3. saw cut edges of patch.
 4. Patch must be hot mix (cold mix may be used temporarily if hot mix cannot be obtained then removed and replaced with hot mix when it is available).
 5. Patch shall be three inches (3") asphalt over nine inches (9") granular base meeting town standards or three-inch (3") asphalt over flow-able backfill.
 6. Fill the saw cut edges with a rubberized crack fill material.
 3. Exceptions to the flow-able backfill requirements set forth above in Parts D,4,c,(1) and D,4,c,(2) above, in lieu of backfilling all trenches cut into new Town streets with flow-able backfill as set forth above, contractors, utility companies or any other entity working on new Town streets may backfill any trench according to specifications and standards set forth in VULU Chapter 8.04, provided that such contractor, utility company or other entity working on new Town streets provides the following:
 1. A written warranty in a form in a form approved by the Town that if such trench compaction subsides, sinks or otherwise fails for any reason, or the pavement over the compacted trench cracks, during the life of said trench, that the contractor, utility company or other entity will repair and re-compact said trench at no cost to the Town according to the standards set forth in VULU Chapter 8.04, within thirty (30) days after receiving

written notice that such trench has failed, except that in an emergency, which is defined as the failure of any trench due to a natural or artificial condition and which poses an eminent risk to persons or property, such contractor, utility company or entity whose trench failed will, within twenty-four (24) hours after receiving notice from the Town, undertake all reasonable steps to protect persons or property from further damage, including but not limited to, erecting barricades, warning lights, lanterns, flares, or other devices to alert the public to the potential hazard. Thereafter, such contractor, utility company or entity shall commence repairs to the affected trench as soon as practicable according to the standards set forth herein; and

2. Any contractor, utility or entity incapable of providing evidence of a net worth in excess of one million dollars (\$1,000,000.00) must in lieu thereof, also post a cash bond for the estimated and reasonable cost to repair said trench as established by the Town Engineer. The Town will retain said cash bond for two (2) years following completion of the trench work. If after the expiration of two (2) years the trench is still intact and has not subsided, sunk or otherwise failed for any reason, the Town will release such bond after inspection by the Town Engineer.
5. Conflicts. Where the provisions of this section conflict with the provisions of other sections, the provisions of this section shall take precedence.
6. Concrete Surfaces. The sub-base for concrete surfaces shall be sprinkled just before placing the concrete. Joints and surfaces shall be made to match the original surfaces. The thickness of concrete shall be equal to the adjacent concrete but in no case less than six inches (6") thick. The mixing, cement, water content, proportion, placement and curing of the concrete have less compressive strength than three thousand pounds (3,000 lbs.) per square inch at the end of twenty-eight (28) days.
7. Concrete Base, Bituminous Wearing Surfaces. This type of surfacing shall be constructed as above described.
8. Gravel Surfaces. Trenches excavated through gravel-surfaced area, such as gravel roads and shoulders and unpaved driveways, shall have the gravel restored and maintained as described in subsection E of this section, except that the gravel shall be a minimum of one inch (1") more than the thickness of the existing gravel.
9. Jetting Pipe. Jetting pipe by means of water under pressure or compressed air is permitted only when approved by the Town.
5. PROTECTION OF PUBLIC. Excavation operations shall be conducted in such a manner that a minimum amount of interference or interruption of street traffic will result. Inconvenience to residents and businesses fronting on public streets shall be minimized. Suitable, adequate and sufficient barricades shall be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all of the excavator's equipment is removed from site and excavation has been backfilled and proper temporary gravel surface is in place. From sunset to sunrise, all barricades and excisions must be clearly outlined by acceptable warning lights, lanterns, flares and other devices. Police and fire departments shall be notified at least twenty-four (24) hours in advance of any planned excavation requiring street closures or detour.
6. RELOCATION AND PROTECTION OF UTILITIES. An excavator shall not interfere with any existing utility without the written consent of the Town Council and without advance notice to the owner of the utility. If it becomes necessary to relocate an existing utility, it shall be done by its owner unless the owner otherwise directs. No utility, whether owned by the Town or by a

private enterprise, shall be moved to accommodate the Permittee unless the cost of such work be borne by the Permittee or an expressly-written agreement is made whereby the utility owner and the excavator make other arrangements as to such cost. The Permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and shall do everything necessary to support, sustain and protect them under, over, along or across the work. In case any of the pipes, conduits, poles, wires or apparatus should be damaged (and for this purpose pipe coating or other encasement or devices are to be considered as part of the substructure), they shall be repaired by the agency or person owning them, but the utility owner shall be reimbursed for the expense of such repairs by the Permittee. It is the intent of this Chapter that the Permittee shall assume all liability for damage to substructures, and any resulting damage or injury to anyone because of such substructure damage and such assumption of liability shall be deemed a contractual obligation which the Permittee accepts upon acceptance of an excavation permit. The Town need not be made party to any action because of this Chapter. The Permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

7. REVOCATION OR REFUSAL OF PERMIT. All permits shall be subject to revocation and the Town may refuse to issue a permit for failure of the Permittee or applicant to abide by the terms and conditions of this Chapter.
8. EXCEPTIONS IN EMERGENCY. Excavation permits will not be requested prior to excavation in case of emergency endangering life or property, providing the Town is notified as soon as practicable and a permit is applied for upon the next regular working day following the emergency.
9. PENALTY. Any person violating any provision of this Chapter shall be guilty of a Class B misdemeanor and upon conviction thereof, subject to penalty as provided in Utah Uniform building Code.

Proposed:

Move entire section from Land Use to Public Works Standards in Municode

VIRGIN TOWN

ORDINANCE # 2021-39

AN ORDINANCE AMENDING CHAPTER TWO OF THE VIRGIN UNIFORM LAND USE ORDINANCES (“VULU”).

RECITALS

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 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 provide clarity and continuity within VULU; and

WHEREAS, the Virgin Town Planning and Zoning Commission held properly noticed Public Hearings on these amendments on April 14, 2021, and voted to recommend its draft amendment ordinance to the Virgin Town Council at a regular meeting on April 28, 2021;

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:

ORDINANCE

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

2.18 – Excavation Permit Required

Remove entire section

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 NUMBER
will become effective on this 28th day of April, 2021 based upon the following vote:

Council Member:

Gene Garate AYE___ NAE___

LeRoy Thompson AYE___ NAE___

Kevin Stout AYE___ NAE___

Jay Lee AYE___ NAE___

Matthew Spendlove, Mayor AYE___ NAE___

VIRGIN TOWN

a Utah municipal corporation

Matthew Spendlove, Mayor

ATTEST:

Monica Bowcutt, Town Clerk

REQUEST FOR VIRGIN TOWN COUNCIL ACTION

To: Mayor and City Council
From: Planning and Zoning

Date:
Subject:
Citizen comments summary:
Recommendation:
Background and Findings:
Fiscal Impact:
Supporting Documents:
This request prepared by:
This request prepared on: