

VIRGIN TOWN
ORDINANCE NO. 2022-__

AN ORDINANCE REVOKING ANY PRIOR ORDINANCES DELEGATING OR REMOVING POWERS, DUTIES AND FUNCTIONS OF THE VIRGIN TOWN MAYOR OUTSIDE THE SCOPE OF UTAH CODE ANN. §§ 10-3B-104(1) AND 10-3B-402(1) AND REAFFIRMING, RESTATING AND MAKING THE TOWN SUBJECT TO THE POWERS, DUTIES AND FUNCTIONS OF THE VIRGIN TOWN MAYOR EXPRESSLY DELINEATED IN THE AFOREMENTIONED SECTIONS OF THE UTAH CODE.

RECITALS

WHEREAS, Pursuant to Utah Code Ann. § 10-1-201 Virgin Town (“the Town”) is a Utah municipal corporation and political subdivision of the State of Utah.

WHEREAS, Pursuant to Utah Code Ann. § 10-3b-103(5) “[e]ach town shall operate under a five-member council form of government unless: (a) before May 5, 2008 the town has changed to another form of municipal government; or (b) on or after May 5, 2008, the town changes its form of government as provided in Part 6....

WHEREAS, Since its inception, the Town has been governed by a five-member Town Council and no election has been held to change its form of governance in compliance with Utah Code Ann. § 10-3b-602 or its predecessor provisions.

WHEREAS, Pursuant to Utah Code Ann. § 10-3b-401 “[t]he powers of municipal government in a municipality operating under the five-member council form of municipal government are vested in a council consisting of five members, one of which is a mayor.”

WHEREAS, Pursuant to Utah Code Ann. § 10-3b-402(1) “[t]he mayor in a municipality operating under a five-member council form of municipal government: (a) is a regular and voting member of the council; (b) is the chair of the council and presides at all council meetings; (c) exercises ceremonial functions for the municipality; (d) may not veto any ordinance, tax levy, or appropriation passed by the council; and (e) except as modified by ordinance under Section 10-3b-403(2), has the powers and duties described in Section 10-3b-104.”

WHEREAS, Pursuant to Utah Code Ann § 10-3b-104(1) the mayor under a five-member council form of government: “(a) is the chief executive officer of the municipality to whom all employees of the municipality report....”

WHEREAS, Pursuant to Utah Code Ann § 10-3b-104(1) the mayor under a five-member council form of government: “(b) shall: i) keep the peace and enforce the laws of the municipality; ii) ensure that all applicable statutes and municipal ordinances and resolutions are faithfully executed and observed; iii) if the mayor remits a fine or forfeiture under Subsection (1)(c)(ii), report the remittance to the council at the council’s next meeting after the remittance; iv) perform all duties prescribed by statute or municipal ordinance or resolution; v) report to the council the condition and needs of the municipality; and (vi) report to the council any release granted under Subsection (1)(c)(iv)....”

WHEREAS, Pursuant to Utah Code Ann § 10-3b-104(1) the mayor under a five-member council form of government: “(c) may: (i) recommend for council consideration any measure that the mayor considers to be in the best interests of the municipality; (ii) remit fines and forfeitures; (iii) if necessary, call on residents of the municipality over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality; (iv) release a person imprisoned for a violation of a municipal ordinance;....”

WHEREAS, Pursuant to Utah Code Ann § 10-3b-104(1)(c) the mayor under a five-member council form of government: “(v) with the council's advice and consent: A) assign or appoint a member of the council to administer one or more departments of the municipality; and B) appoint a person to fill: I) a municipal office; or II) a vacancy on a commission or committee of the municipality;....”

WHEREAS, Pursuant to Utah Code Ann. § 10-3b-104(2) the powers of a mayor may be limited or expanded by ordinance approved by the municipality’s governing body.

WHEREAS, On or about December 18, 2019, the Town, acting by and thru the Virgin Town Council (“Town Council”) codified its ordinances for the first time in the history of the Town with the assistance of Municipal Code Corporation.

WHEREAS, Prior to codification of its ordinances, the Town had struggled to maintain a consistent, indexed record of all ordinances that had been adopted by the Town Council over the years since the Town’s establishment.

WHEREAS, Accordingly, the Town Council is unsure and unclear whether any ordinances have been passed by prior iterations of the Town Council which limited or expanded the Virgin Town Mayor’s (“Mayor”) powers and duties as set forth in Utah Code Ann. §§ 10-3b-104(1) and 10-3b-402(1).

WHEREAS, After careful consideration, the Town Council has determined that, in an effort to bring clarity and simplicity to the Town, its Mayor, the Town Council, and all persons and entities interacting with the Town, that the Town Council should adopt a new ordinance in compliance with Utah Code Ann. § 10-3b-403(1)(b) which indicates that the Mayor has all powers, duties or functions of a mayor prescribed in Utah Code Ann. § 10-3b-104, and that any prior delegations or removal of powers, duties and functions outside of the scope of Utah Code Ann. § 10-3b-104 are revoked effective immediately.

ORDINANCE

NOW THEREFORE BE IT ORDAINED by the Town Council as follows:

1. Limited Revocation of Prior Delegations and Removals of Certain Mayoral Powers, Duties and Functions. Pursuant to Utah Code Ann. § 10-3b-403(1)(b) all prior ordinances which attempt to delegate to, or remove from, the Virgin Town Mayor any power, duty or function that is outside of the scope of Utah Code Ann. §§ 10-3b-104 and 10-3b-402(1) are hereby revoked.
2. Reaffirmation of Mayoral Powers, Duties and Functions Prescribed by Utah Law. In making the partial revocation set forth in Section 1, above, the Town Council reaffirms, restates

and makes the Town subject to, all powers all of the powers, duties and functions of the Virgin Town Mayor as expressly set forth in Utah Code Ann. §§ 10-3b-104 and 10-3b-402(1).

3. 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.

4. Conflicts/Repealer. This Ordinance repeals and supersedes the provisions of any prior Town ordinance in conflict herewith.

5. Effective Date. This Ordinance shall become effective immediately upon adoption by the Town Council and execution by the Mayor.

ADOPTED AND APPROVED BY THE VIRGIN TOWN COUNCIL this _____th day of January, 2022, based upon the following vote:

Council Person:

Paul Luwe	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Mistie Baird	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Leroy Thompson	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Gene Garate	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Jean Krause (Mayor)	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____

VIRGIN TOWN

a Utah municipal corporation

Attest:

Jean Krause, Mayor

Krystal Percival, Town Clerk