

ORDINANCE NO. 2022-12

AN ORDINANCE FORGIVING OVERPAYMENT OF COMPENSATION TO VIRGIN'S ELECTED AND APPOINTED OFFICERS FOR THE 4-YEAR PERIOD FROM JULY 2018 TO JUNE 2022 DUE TO FAILURE TO AMEND COMPENSATION BY ORDINANCE AND HOLD A PROPERLY NOTICED PUBLIC HEARING

RECITALS

WHEREAS Utah Code Section 10-3-818(1) provides that “elective and statutory officers of municipalities shall receive such compensation for their services as the governing body may fix by ordinance adopting compensation or compensation schedules enacted after public hearing”;

WHEREAS Utah Code Section 10-3-818(4) provides that “after the conclusion of the public hearing, the governing body may enact an ordinance fixing, changing, or amending the compensation of any elective or appointive officer of the municipality or adopting a compensation schedule applicable to any officer or officers”;

WHEREAS the Town increased the compensation of the town council members (in 2018, 2020, & 2021), of the mayor (in 2018, 2019, 2020, & 2021), planning and zoning commissioners (in 2018, 2020, & 2021), and planning commission chair (in 2018, 2019, 2020, & 2021) but failed to update the town's procedural code accordingly by ordinance for each year from 2018 to 2021;

WHEREAS these increases were subsequently distributed by the Town's previous administration under various procedural errors, resulting in overpayments;

WHEREAS the Town made these changes without holding required public hearings each year from 2018 to 2021 as required by Utah Code Section 10-3-818(1);

WHEREAS, the pay increases were, however, properly included, deemed necessary, and approved before the public in the annual budgets for each year;

WHEREAS, a public hearing was held on November 16, 2022, at which the public was invited to comment on the adoption of each pay increase for elected and appointed officers over the entire period during which the rules were not timely followed;

WHEREAS preliminary calculations of compensation improperly paid to Virgin's elected and appointed officials from July 1, 2018, to June 30, 2022, show payments totaling \$78,060.00 that were not provided for in Virgin's MPC 3.06.030 during that time period (see attached spreadsheet detailing the calculations);

WHEREAS the Town Council hereby finds that the overpayment of \$78,060.00 to Virgin's elected and statutory/appointed officers should be forgiven.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF VIRGIN, UTAH:

Section 1. That overpayment of compensation due to procedural errors to the Mayor, Town Councilmembers, Planning & Zoning Commission Chair, and Planning & Zoning Commissioners who served between July 1, 2018, and June 30, 2022, is hereby forgiven.

Section 2. The aforementioned overpayment of compensation due to procedural errors is estimated to be \$78,060.00.

Section 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.

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

Section 5. 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# 2022-12 will become effective on this 16th day of November 2022 based upon the following vote:

Council Member:

Gene Garate	AYE <u> </u>	NAE <u> </u>
LeRoy Thompson	AYE <u> </u>	NAE <u> </u>
Mistie Baird	AYE <u> </u>	NAE <u> </u>
Paul Luwe	AYE <u> </u>	NAE <u> </u>
Jean Krause, Mayor	AYE <u> </u>	NAE <u> </u>

VIRGIN TOWN
a Utah municipal corporation

Jean Krause, Mayor

ATTEST:

Krystal Percival, Town Clerk/Recorder