

Date: 2-14-23
Name of preparer: Sean Amodt
Contact information of preparer: amodtsg@gmail.com
Reasons for change: 1 Officially add the Utah State definition of “Adversely Affected Party” to VULU. 2 This change will clarify the meaning of “affected party” in our current ordinance. 3 This will add the words adversely affected party to multiple locations within VULU, where previously it only had ‘affected party’ or some version of that statement.
Current: 2.12 - DEFINITIONS (no current definition for “Adversely Affected Party” in VULU) <u>6.12 APPEALS TO THE APPEAL AUTHORITY</u> 1. As a condition precedent to judicial review, each adversely affected person may specifically challenge a Land Use Authority's decision, within fifteen (15) days of the land use decision and pay the related fee. <u>CHAPTER 16 CONDITIONS, AND CONDITIONAL USES</u> C. ALTERATION OR ABANDONMENT OF CONDITIONAL USE. If a use is altered from that which was originally approved or permitted in accordance with this Chapter, or abandoned for one (1) year, or has not been established within one (1) year after the date granted ("Establishment Deadline"), the CUP may be null and void after a decision by the Town Council at a public meeting. 1. Any affected party must be notified of the proceedings and of any results determined. <u>16.04 APPLICATION AND REVIEW PROCESS</u> C. CONDITIONAL USE STANDARDS OF REVIEW. The Town shall not issue a CUP unless: a) the Zoning Administrator in the case of Level 1 Conditional Use, or b) the Planning & Zoning Commission, in the case of a Level 2 Conditional Use, concludes that the application, with possible conditions, can fully mitigate all identified adverse impacts and complies with the following general standards for all conditional uses, as well any of the applicable specific use standards listed. Any affected party may appeal decisions of a CUP. (see VULU 16.08A CUP Appeals process).

F. LEVEL 1 CUP REVIEW.

4. The Applicant, Town or previously identified **affected party** may appeal any decision to the Town Council within 15 days of the determination. (See VULU 16.08A and VULU Chapter 6 for further clarification of the Appeals process.)

G. LEVEL 2 CUP REVIEW.

7. The Applicant, Town or a previously identified **affected party** may appeal any decision to the Town Council within 15 days of the determination. (See VULU 16.08A and VULU Chapter 6 for further clarification of the Appeals process.)

16.06 APPEAL OF CUP ACTIONS

1. APPEAL TO TOWN COUNCIL. Upon receipt of an appeal of a CUP determination by the Applicant, Town or **affected party**, the Town Council, acting in the capacity of the Appeal Authority and in compliance with the procedural requirements of VULU Chapter 6, shall schedule a hearing of the issue within forty five (45) days following the date it receives an appeal request.

Proposed:

2.12 - DEFINITIONS

Adversely Affected Party. A person other, than a land use applicant, who: (a) owns real property adjoining the property that is the subject of a land use application or land use decision; or (b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision. (Utah State Code: 10-9a-103- Definitions).

6.12 APPEALS TO THE APPEAL AUTHORITY

2. As a condition precedent to judicial review, each **A**dversely **A**ffected **person** **Party** may specifically challenge a Land Use Authority's decision, within fifteen (15) days of the land use decision and pay the related fee.

CHAPTER 16 CONDITIONS, AND CONDITIONAL USES

C. ALTERATION OR ABANDONMENT OF CONDITIONAL USE. If a use is altered from that which was originally approved or permitted in accordance with this Chapter, or abandoned for one (1) year, or has not been established within one (1) year after the date granted ("Establishment Deadline"), the CUP may be null and void after a decision by the Town Council at a public meeting.

2. Any **Adversely Affected Party** must be notified of the proceedings and of any results determined.

16.05 APPLICATION AND REVIEW PROCESS

C. CONDITIONAL USE STANDARDS OF REVIEW. The Town shall not issue a CUP unless: a) the Zoning Administrator in the case of Level 1 Conditional Use, or b) the Planning & Zoning Commission, in the case of a Level 2 Conditional Use, concludes that the application, with possible conditions, can fully mitigate all identified adverse impacts and complies with the following general standards for all conditional uses, as well any of the applicable specific use standards listed. Any **Adversely Affected Party** may appeal decisions of a CUP. (see VULU 16.08A CUP Appeals process).

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16.06 APPEAL OF CUP ACTIONS

2. APPEAL TO TOWN COUNCIL. Upon receipt of an appeal of a CUP determination by the Applicant, Town or **Adversely Affected Party**, the Town Council, acting in the capacity of the Appeal Authority and in compliance with the procedural requirements of VULU Chapter 6, shall schedule a hearing of the issue within forty-five (45) days following the date it receives an appeal request.

VIRGIN TOWN

ORDINANCE #

AN ORDINANCE AMENDING CHAPTERS _____ 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 _____, 2023, and voted to recommend its draft amendment ordinance to the Virgin Town Council at a regular meeting on _____, 2023;

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:

2.12 - DEFINITIONS

Adversely Affected Party. A person other, than a land use applicant, who: (a) owns real property adjoining the property that is the subject of a land use application or land use decision; or (b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision. (Utah State Code: 10-9a-103-Definitions).

6.12 APPEALS TO THE APPEAL AUTHORITY

3. As a condition precedent to judicial review, each **Adversely Affected** ~~person~~ **Party** may specifically challenge a Land Use Authority's decision, within fifteen (15) days of the land use decision and pay the related fee.

CHAPTER 16 CONDITIONS, AND CONDITIONAL USES

C. ALTERATION OR ABANDONMENT OF CONDITIONAL USE. If a use is altered from that which was originally approved or permitted in accordance with this Chapter, or abandoned for one (1) year, or has not been established within one (1) year after the date granted ("Establishment Deadline"), the CUP may be null and void after a decision by the Town Council at a public meeting.

3. Any **Adversely Affected** **Party** must be notified of the proceedings and of any results determined.

16.06 APPLICATION AND REVIEW PROCESS

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16.06 APPEAL OF CUP ACTIONS

3. APPEAL TO TOWN COUNCIL. Upon receipt of an appeal of a CUP determination by the Applicant, Town or **Adversely Affected Party**, the Town Council, acting in the capacity of the Appeal Authority and in compliance with the procedural requirements of VULU Chapter 6, shall schedule a hearing of the issue within forty-five (45) days following the date it receives an appeal request.

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 _____ day of _____ month, 2023, based upon the following vote:

Council Member:

Gene Garate	AYE___	NAE___
LeRoy Thompson	AYE___	NAE___
Mistie Baird	AYE___	NAE___
Paul Luwe	AYE___	NAE___
Jean Krause, Mayor	AYE___	NAE___

VIRGIN TOWN

a Utah municipal corporation

Jean Krause, Mayor

ATTEST:

Krystal Percival, 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: