

# **CHAPTER 1: GENERAL PROVISIONS & INTRODUCTION TO DEFINITIONS**

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## **1.1. SHORT TITLE**

This ordinance shall be known as the “Virgin Uniform Land Use” ordinance and may be so cited and pleaded.

## **1.2. PURPOSE**

This ordinance is designed and enacted for the purpose of promoting the health, safety, convenience, and general welfare of the present and future residents of the Town of Virgin. The ordinance shall encourage sanitation; prevent the overcrowding of land; reduce hazards from floods, fires, accidents, and other dangers; provide provisions for transportation, water, sewage disposal, schools, parks and other public conveniences and requirements; prevent excessive scattering of urban development; improve property values; promote beauty in the community; improve and safeguard the economic base; reduce the cost of providing essential public services; and promote development of a wholesome, well-ordered Town as set forth in the Virgin Town General Plan.

## **1.3. INTERPRETATION**

In interpreting and applying the provisions of this ordinance, the requirements contained herein are declared to be the minimum requirements for the purpose set forth.

## **1.4. CONFLICT**

This ordinance shall not nullify the more restrictive provision of covenants, agreements, ordinances or laws that affect land or land use under this ordinance, but shall prevail notwithstanding such provisions which are less restrictive.

## **1.5. EFFECT ON PREVIOUS ORDINANCES AND MAPS**

The existing ordinances of the Town covering zoning, in their entirety, and including the maps heretofore adopted and made a part of said ordinances are hereby superseded and amended to read as set forth herein; provided, however, that this ordinance, including the attached map, shall be deemed a continuation of previous ordinances and not a new enactment, insofar as the general substance of revisions of previous ordinances is included in this ordinance, whether in the same or in different language; and this ordinance shall be so interpreted upon all questions of construction, including but not limited to, tenure of officers and boards established by previous ordinances and to questions of conforming or nonconforming uses and buildings, and to questions as to the dates upon which such uses, or buildings became conforming or nonconforming.

## **1.6. DEFINITIONS**

Unless the context requires otherwise, the following definitions shall be used in the interpretation and construction of this ordinance. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word “building” shall include the word “structure” and the word “structure” shall include the word “building”; the words “used” or “occupied” shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be leased; the word “shall” is mandatory and not directory, and the word “may” is permissive; the word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the word “lot” includes the words lot or parcel. Words used in this ordinance but not defined herein shall have the meaning as defined in any other ordinance adopted by the local jurisdiction.

**Accessory.** A system designed as a secondary use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption.

**Accommodation, Reasonable** (Reasonable Accommodation). A change in a rule, policy, practice, or service necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. See Chapter 25.3.1.G. for specific review standards, as used in this definition:

- a. “Reasonable” means a requested Accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the Accommodation would provide to a person with a disability.
- b. “Necessary” means the applicant must show that, but for the Accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice.
- c. “Equal opportunity” means achieving equal results as between a person with a disability and a non-disabled person.

**Acreage, Gross** (Gross Acreage). The total area of a parcel including the area of perimeter street rights-of-way to the centerline of the street.

**Affected Entity** <sup>1</sup>

A county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service district act, school district, inter-local cooperation entity established under Title 11, Chapter 13, Inter-local Cooperation Act, specified public utility, a property owner, a property owners association, or the Utah Department of Transportation, if:

- a. the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land; and/or
- b. the entity has filed with the municipality a copy of the entity's general or long-range plan; or
- c. the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this Chapter.

**Agricultural Industry or Business.** An industry or business involving agricultural or agricultural products in manufacturing, processing, treatment, sales, feeding or storage, including but not limited to animal feed yards or facilities, fur farms, food processing or processing plants, commercial livestock, poultry or egg production and similar uses as determined by the planning and zoning commission.

**Agriculture.** The science and art of raising and producing plants and animals useful to man and/or industry, including the preparation of plants and animals for human use and disposal by marketing or otherwise. agriculture shall include: forages and sod crops; grain and feed crops; dairy animals, poultry, livestock, including beef, cattle, sheep, goats, horses, ponies and mules; the breeding, grazing, raising, producing and marketing of any or all such animals; bees; fur animals, trees, fruits of all kind, including grapes, nuts and berries; vegetables, nursery, floral and ornamental stock; or when devoted to and meeting the requirements and qualifications for payment or other compensation pursuant to a cropland retirement program under an agreement with an agency of the state or federal government.

**Alley.** A public access way, less than twenty-six feet (26’) in width, but not less than twelve feet (12’), which is designed to give secondary access to lots of abutting properties. an alley shall not be considered a street, for the purpose of this ordinance.

**Alteration, Structural** (Structural Alteration). Any changes in the supporting members of a building such as bearing walls, columns, beams or girders.

**Animals, Domestic Farm** (Domestic Farm Animals). Shall include horses, cows, sheep goats, and fowl. EXCLUDES swine and exotic animals.

**Animals, Fowl.** Includes pheasants, turkeys, grouse and the common domestic chicken.

**Animals, Household Pets** (Household Pets). Animals or fowl ordinarily permitted in the house and kept for company or pleasure, such as dogs, cats, but not including a sufficient number of dogs to constitute a kennel, as is defined in this ordinance, but not including the keeping of normally dangerous animals, such as, but not limited to, lions, tigers, bears or venomous snakes.

**Animals, Livestock.** Cattle, sheep, goats, swine, horses, mules, poultry, or any other domestic animals.

**Apartment, Hotel, Motel.** Any building which contains dwelling units and also satisfies the definition of a hotel or motel.

**Appeal Authority.** The person appointed by the mayor with the advice and consent of council to hear appeals from person(s) who have been affected by the implementation of the Land Use Ordinances. <sup>2</sup>

**Apex, Alluvial Fan** (Alluvial Fan Apex). A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

**Applicant.** The owner of land proposed to be subdivided or such owner's duly authorized agent. Any agent must have written notarized authorization from the owner.

**Architectural Projection.** Any building or structural projection which is not intended for occupancy and which extends beyond the face of an exterior wall of a structure, but not including signs.

**Attorney, Local** (Local Attorney). The attorney who represents Virgin Town.

**Basement.** Any area of the building having its floor sub-grade (below ground level) on all sides. A basement shall be counted as a half story for the purpose of side yard determination.

**Benchmark.** A mark affixed to a permanent or semi-permanent object to furnish a datum level in survey.

**Board of Adjustment.** A board appointed by the Virgin Town Council as provided in this ordinance to hear appeals by any person aggrieved by his/her ability to obtain a building permit under this ordinance or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of this ordinance. <sup>3</sup>

**Bond Agreement.** An agreement to install improvements secured by a stand-by irrevocable letter of credit, performance bond, escrow deposit, trust deed, or any combination of the preceding as approved by the Town Council.

**Buildable Area.** The portion of a lot remaining after setbacks have been provided, except that land with an average grade exceeding fifteen percent (15%) shall not be considered buildable area unless it is approved by conditional use permit for construction, after study by a geologist, soils engineer, or sanitarian as required by the planning and zoning commission.

**Building.** Any structure used or intended to be used for the shelter, or enclosure, of persons, animals or property.

**Building Inspector.** The official designated by the Town Council as the building inspector for the Town of Virgin. The Virgin Town building Inspector may also be the Virgin Town Zoning Administrator, if so designated.

**Building Inspector, Local** (Local Building Inspector). The Virgin Town building Inspector; also the Zoning Enforcement Officer or person so designated and officially representing the Town of Virgin.

**Building, accessory** (Accessory Building). A building which is subordinate to, and the use of which is incidental to, that of the main building or use on the same lot.

**Building, Coverage** (Coverage Building). The percent of the total site area covered by buildings.

**Building, Elevated** (Elevated Building). A non-basement building (i) built, in the case of a building in FIRM zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in zones V1-30, VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, “elevated building” also includes a building otherwise meeting the definition of “elevated building,” even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the NFIP regulations.

**Building, Height of** (Height of Building). The vertical distance from the average finished grade surface to the highest point of any building roof or coping.

**Building, Main** (Main Building). The principal building or one (1) of the principal buildings upon a lot, or the building or one (1) of the buildings housing a principal use upon a lot.

**Building, Public** (Public Building). A building owned and/or operated by a public entity or public agency or intended to be used by the public.

**Business.** Any and all activities engaged in within this town carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically provided. Engaging in business includes but is not limited to the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property, soliciting patronage for the business (actively or passively), performing or attempting to perform any part of such business in the town, and the rendering of personal services for others for a consideration by a person, firm or corporation engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.<sup>4</sup>

**Campground.** A parcel of land designated and approved by the Town of Virgin for occupancy by persons using tents, trailers, motor homes or campers on a temporary basis.

**Campground Cabin.** A small building designed as temporary living quarters footprint of two-hundred and fifty (250) square feet and a height of sixteen (16) feet. A cabin may have electricity (including heating and cooling appliances), but plumbing for running water and waste water is prohibited.<sup>5</sup>

**Campground Restaurant.** A commercial establishment where food and drink are prepared, served and consumed primarily within the principal building. Outdoor seating is permitted and drive-up facilities are prohibited.<sup>6</sup>

**Carport.** A private garage not completely enclosed by walls or doors.

**Cellar.** A room or rooms wholly under the surface of the ground or having more than fifty percent (50%) of its floor-to-ceiling height under the average level of the adjoining ground.

**Church.** A building, together with its accessory buildings and uses, maintained and controlled by a duly recognized religious organization where persons regularly assemble for worship.

**Clinic, Dental or Medical** (Dental or Medical Clinic). A building in which a group of dentists, physicians, and related professionals and their staff are associated for the conduct of their professions. The clinic may include a dental and/or a medical laboratory and an apothecary, but it shall not include inpatient care or operating rooms for major surgery.

**Club, Private** (Private Club). An organization, group, association or corporation supported by the members thereof, the sole purpose of which is to render service customarily rendered for members and their guests but shall not include any service, the chief activity of which is customarily carried on as a business, and does not include labor union organizations or similar labor or business organizations.

**Commission.** The Planning and Zoning Commission of the Town.

**Commission's Authorized Representative.** The Planning And Zoning Commission or any other Town employee or official who has been designated by the commission to represent the Town in carrying out the functions of the commission.

**Common Open Space.** Undeveloped land within a subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development or the Town or by the public.

**Communication Tower, Private** (Private Communication Tower). A freestanding or building mounted structure, including appurtenances and antennas, intended for airway communication purposes; such as a television antenna, amateur radio tower, or satellite dish, utilized for non-commercial purposes.

**Condominium.** An ownership structure established in accordance with the Utah Condominium Act; a community association combining individual unit ownership with shared use or ownership of common property or facilities. A condominium is a legal form of ownership of real estate and not a specific building type or style.

**Conservation Organization, Non-Profit** (Non-Profit Conservation Organization). Any charitable corporation, charitable association or charitable trust (such as a land trust), the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.

**Construction, Existing** (Existing Construction). For the purposes of determining flood insurance rates, structures for which the "initial construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "existing construction" may also be referred to as "existing structures."

**Construction, Initial** (Initial Construction). Includes substantial improvement and means the date the building permit was issued, provided the actual initial construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land

preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Construction, New** (New Construction). For the purpose of determining flood insurance rates, structures for which the “initial construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a Floodplain Management Regulation adopted by a community and includes any subsequent improvements to such structures.

**Construction, Start of** (Start of Construction). Any manmade change to improved or unimproved lands, including, but not limited to, buildings or structures, mining, dredging, filling, paving, grading, excavation or drilling operations.

**Convenience Store.** A one-story, retail store containing less than 3,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchased only a relatively few items (in contrast to a “supermarket”). It is designed to attract and depends upon a large volume of stop-and-go traffic. Illustrative examples of convenience stores are those operated by the “Circle K,” “7-11” and “Maverick” chains.

**Corral.** A space other than a building, or pasture, used for the confinement of livestock.

**Court.** An open, unoccupied space, other than a yard, on the same lot with a building or a group of buildings, and which is surrounded on three (3) or more sides by such building or buildings. The width of a court is its least horizontal dimension, measured between opposite sides in the same direction as the yard or lot line on which the court opens. The length of a court is its least horizontal dimension measured at right angles to its width.

**Covenants, Codes And Restrictions (CC&Rs).** CC&R’s variously regulate the usages and aesthetics of a neighborhood or development.

**Critical Feature.** An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**Cul-De-Sac.** A minor terminal street provided with a turn-around. cul-de-sacs shall only be applicable to local streets and shall be a minimum of one hundred feet (100’) in diameter.

**Culinary Water Authority.** The Town of Virgin.

**Damage, Substantial** (Substantial Damage). Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

**Developer.** Either: (i) an applicant for subdivision approval; (ii) an applicant for a building permit or another permit issued; or (iii) the owner of any right, title, or interest in real property for which subdivision/division of land approval or concept plan approval is sought.

**Development.** Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**Development Envelopes.** A delineated area that identifies the location within which all grading, clearing, excavation, and development shall be located on a parcel. Exceptions may be made for underground improvements, drainage and utility installations (or other similar associated improvements), improvements approved by the Fire Authority for wildfire mitigation purposes, trails dedicated to public use, and driveways.

**Disabled/Disability.** A physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment. "Disability" does not include current illegal use of, or addiction to, any Federally-controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802, or successor law. Disabled/disability includes those as defined in Sections 62A-5-101 UCA and 57-21-2 UCA.

**District.** A portion of the territory of the Town of Virgin, established as a zoning district by this ordinance, within which certain uniform regulations or requirements or various continuations thereof apply under the provisions of this ordinance; also includes "zone", and "zoning district."

**Drainage Course, Natural** (Natural Drainage Course). Any natural watercourse, which is open continuously for flow of water in a definite direction or course.

**Driveway.** A private entrance, the use of which is limited to persons residing, employed or otherwise using or visiting the premises on which the entrance is located.

**Dwelling.** Any building or portion thereof designed or used primarily as a long-term residence or sleeping place of one or more family members, but not including a tent, recreational vehicle, travel trailer, hotel, motel, hospital, or nursing home.

**Dwelling Unit.** One (1) or more rooms in a dwelling, apartment hotel or apartment motel, designed for or occupied by one family for living or sleeping purposes and having kitchen and bathroom facilities for the use of not more than one (1) family.

**Dwelling, Group** (Group Dwelling). A group of two (2) or more detached buildings used as dwellings.

**Dwelling, Mobile Home** (Mobile Home Dwelling). See "Home, Mobile (mobile home)".

**Dwelling, Multiple Family** (Multiple Family Dwelling). A building arranged or designed to be occupied by more than two (2) families, and having more than two (2) dwelling units.

**Dwelling, Single-Family** (Single-Family Dwelling). A building arranged or designed for the long term occupancy of one (1) family, the structure having only one (1) dwelling unit.

**Dwelling, Two-Family** (Two-Family Dwelling). A building arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling units.

**Easement.** A right granted by the owner of land to another party for specific limited use of that land. The easement may be for use under, on, or above said lot or lots; authorization by property owner for the use by another, and for a specified purpose, such as utilities and irrigation ditches, of any designated part of the owner's property. An easement may be for use under, on the surface, or above the owner's property.

**Easement, Conservation** (Conservation Easement). The grant of a property right or interest from the property owner to a unit of government or nonprofit conservation organization stipulating that the described land shall remain in its natural, scenic, open or wooded state, limiting future or additional development.

**Elevation, Water Surface** (Water Surface Elevation). The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Engineer.** A certified professional engineer.

**Engineer, Local** (Local Engineer). The engineer employed by or officially representing Virgin Town.

**Engineer, Town** (Town Engineer). The City Engineer of the Town or his authorized representative.

**Entities of Public Ownership, Appropriate** (Appropriate Entities of Public Ownership). Includes all ownership by Federal, State, Washington County, BLM, Washington County School District, WCWCD, etc.

**Facilities or Services, Essential** (Essential Facilities or Services). Utilities or sanitary and public safety facilities or services provided by a public utility or other governmental agency.

**Facility for the Disabled/Residential Facility for Persons with a Disability, Residential.** A residence in which two or more persons with a disability reside and which is licensed or certified by the Department of Human Services under Title 62A, Chapter 5, of the Utah Code, Services to People with Disabilities; or is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

**Facility for the Elderly, Residential** (Residential Facility For The Elderly). A dwelling unit that is either owned by one of the residents or by an immediate family member of one of the residents, or is a facility for which the title has been placed in trust for a resident; and is occupied on a twenty-four (24) hour-per-day basis by eight (8) or fewer elderly persons in a family-type arrangement. A residential facility for elderly persons shall not include any facility which is operated as a business (provided, that such facility may not be considered to be operated as a business solely because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility); where persons being treated for alcoholism or drug abuse are placed; where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution; which is a health care facility as defined by Section 26-21-2 of the Utah Code; or which is a residential facility for persons with a disability.

**Facility, Congregate Living (CLF)** (Congregate Living Facility). A residence in which five (5) or more persons which do not constitute a family reside, including but not limited to Residential Facilities for the Disabled and Residential Facilities for the Elderly.

**Family.** One (1) or more individuals occupying a dwelling unit and living together as a single household unit with common access to, and common use of, all facilities comprising the dwelling unit, as distinguished from a boarding or rooming house, fraternity or sorority house, club, motel and other similar uses. In general, five (5) or more unrelated persons living in a single Dwelling do not constitute the functional equivalent of a traditional family. However, a group of five (5) or more unrelated individuals may request designation by the Planning commission as the functional equivalent of a family for the purposes of this zoning ordinance. The Planning Commission will hear the request and find that a group qualifies as a family if the group:

- a. Lives and cooks together in a residence as a "single housekeeping unit"; and
- b. shares expenses for food, rent, utilities or other household expenses; and
- c. is to "all outward appearances, a relatively normal, stable, and permanent family unit;" and



- d. is not a “temporary living arrangement as would be a group of college students sharing a house;” and
- e. will inhabit a dwelling which does not provide "a framework for transients or transient living;” and
- f. shares the entire house; and
- g. includes one (1) or more adults domiciled in the residence (see 42 U.S.C. § 3602(k), and Keys Youth Services v. City of Olathe); any minor occupants are domiciled therein with: (i) a parent or another person who has or is in the process of securing legal custody of such individual or individuals; or (ii) the designee of such parent or other person having such custody, with the written permission of such parent or other person."

**Fee Schedule.** The schedule or any appendix of fees adopted periodically by resolution of the Town Council setting forth various fees charged by the Town.

**Fence.** A physical barrier to delineate, contain, or designate an area designed for a specific use, i.e. an enclosure for a dwelling unit, an area of storage, etc.

**FIRM.** See FLOOD INSURANCE RATE MAP.

**Fixture.** The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

**Flood Hazard.** Potential hazard to land or improvements by water.

**Flood Hazard, Area of Special** (Area Of Special Flood Hazard). The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

**Flood Insurance Rate Map (FIRM).** An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study.** The official report provided by the federal emergency management agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary-floodway map.

**Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from: (i) the overflow of inland or tidal waters; or (ii) the unusual and rapid accumulation or runoff of surface waters from any source.

**Flood or Spot Light.** Any light fixture or lamp that incorporates a reflector or refractor to concentrate the light output into a direct beam in a particular direction.

**Flood Proofing.** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Flood Protection System.** Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to

reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**Flood, Base** (Base Flood). The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**Flooding, Alluvial Fan** (Alluvial Fan Flooding). Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

**Flooding, Area of Shallow** (Area of Shallow Flooding). A designated AO, AH, or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one foot (1') to three feet (3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Floodplain Management.** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**Floodplain Management Regulations.** zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodplain or Flood-Prone Area.** Any land area susceptible to being inundated by water from any source (see definition of flooding).

**Floodway** (Regulatory Floodway). The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**Floor Area.** Area included within surrounding walls of a building, or portion thereof, exclusive of vents, shafts and courts.

**Floor, Lowest** (Lowest Floor). The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

**Frontage.** All property fronting on one (1) side of the street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or political subdivision boundary, measured along the street line. an intercepting street shall determine only the boundary of the frontage on the side of the street of which it intercepts.

**Frontage, Lot** (Lot Frontage). The lineal measurement of the front lot line.

**Frontage Lot, Double.** (See Lot, Double Frontage.)

**Garage, Private** (Private Garage). A detached accessory building, or a portion of a main building, used or intended to be used for the storage of motor vehicles, trailers or boats.

**Garage, Public** (Public Garage). A building or portion thereof, other than a private garage, designed or used for servicing, equipping, renting, selling or storing motor-driven vehicles.

**Garage, Repair** (Repair Garage). A structure or portion thereof other than a private garage, used for the repair or refinishing of self-propelled vehicles, trailers, or boats, including general repair, rebuilding or reconditioning of engines, motor vehicles, or trailers, and minor repairs or overall automobile or truck painting.

**Glamping.** A short-hand term combining the two words “glamorous” and “camping.” similar to regular camping, but facilities are usually nicer, even luxurious, and more comfortable. <sup>7</sup>

**Glare.** Light emitting from a luminaire with intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

**Grade.** For buildings or structures adjoining one (1) street only, the elevation of the sidewalk at the center of the wall adjoining the street. For buildings or structures adjoining more than one (1) street, the average of the elevation of the sidewalk at the centers of all walls adjoining the streets. For buildings or structures having no wall adjoining the street, the average level of the finished natural surface of the ground adjacent to the centers of all exterior walls of the building. For the purposes of this section, natural surface level includes: (i) the level at time of lot purchase; (ii) a previously excavated level, if substantially unchanged for ten (10) or more years; or (iii) a new level resulting from expressly approved excavation of lot. Any wall or structure parallel or nearly parallel to and not more than five feet (5') from a street line is to be considered as adjoining the street.

**Grade, For Buildings or Structures Adjoining one (1) street only.** The elevation of the sidewalk the elevation of the sidewalk at the center of the wall adjoining the street.

**Grade, For Buildings or Structures Adjoining more than one (1) street.** The average of the elevation of the sidewalk at the centers of all walls adjoining the streets.

**Grade, For Buildings or Structures Having No Wall Adjoining a street.** The average level of the finished natural surface of the ground adjacent to the centers of all exterior walls of the building.

**Grade, Highest Adjacent** (Highest Adjacent Grade). The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Hazard, Flood** (Flood Hazard). Potential hazard to land or improvements by water.

**Hazard, Geological** (Geological Hazard). A hazard inherent in or on the crust of the earth, or artificially created, which is dangerous or potentially dangerous to life, property, or improvements due to the movements, failure or shifting of the earth.

**Health Department.** The Utah State Division of Environmental Health or local health agency having jurisdiction.

**Health Officer, Local** (Local Health Officer). The Health Officer or department employed by or officially representing Virgin Town.

**Heat Transfer Fluid.** A non-toxic and food grade fluid such as potable water, aqueous solutions of propylene glycol not to exceed twenty percent (20%) by weight or aqueous solutions of potassium acetate not to exceed twenty percent (20%) by weight.

**Home Occupation.** Any use conducted entirely [within a dwelling and carried on by persons residing in the dwelling unit, said use occupying no more than twenty-five percent (25%) of the dwelling unit] out of

view from outside of property boundaries, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. <sup>8</sup>

**Homeowners Association.** A community association incorporated or not incorporated, combining individual home ownership with shared use or ownership of common property or facilities.

**Horizontal Axis Wind Turbine.** A wind turbine design in which the rotor shaft is parallel to the ground and the blades are perpendicular to the ground.

**Hospital.** An institution for the diagnosis, treatment and care of human illness or infirmity, including sanitariums and clinics.

**Hospital, Veterinary or Animal** (Veterinary or Animal Hospital). A building or group of buildings together with runs, where large and/or small animals are kept and/or treated by a licensed veterinarian.

**Hotel.** A building that furnishes lodging, food, etc. to travelers or other guests, for compensation.

**House, Boarding** (Boarding House). A building with not more than five (5) guest rooms where, for compensation, meals are provided for not more than fifteen (15) persons.

**House, Lodging** (Lodging House). A building where lodging only is provided for compensation to at least three (3) but not more than fifteen (15) persons, but not including motels or hotels.

**Hub.** The center of a wind generator rotor, which holds the blades in place and attaches to the shaft.

**Hub Height.** The distance measured from natural grade to the center of the turbine hub.

**Improvement, Substantial** (Substantial Improvement). Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before "initial construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: (i) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or (ii) any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**Improvements, Public** (Public Improvements). Parks, streets, recreation, water, sewer, storm drains, irrigation, wells, hydrants, natural gas, street lighting, power, telephone, cable, and other similar facilities which are required to be dedicated to the Town in connection with subdivision/division of land, conditional use, or site plan approval.

**Junk.** Any or all worn out, cast off, or discarded article or material which is ready for destruction or removal from property for waste or salvage. Any article or material which, unaltered, or changed and without further reconditioning, can be used for its original purpose as readily as when new, shall not be considered junk. <sup>9</sup>

**Junk Cars.** A junk car is any used car or motor vehicle not in the process of reconditioning, which has been abandoned for the use as a motor vehicle on a public highway and which is in unsafe operating condition and shall have remained in such condition for a period in excess of thirty (30) days; or portions of junk cars, such as hoods, doors, fenders, radiators, rims, engines, hub caps, etc., not being immediately utilized in the repair of a motor vehicle.

**Junk Yard.** A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal or other scrap, discarded material or junk; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof.

**Jurisdiction, Local** (Local Jurisdiction). The Town of Virgin.

**Kennel.** Any premises where four (4) or more dogs older than four (4) months are kept.

**Lamp.** The component of a luminaire that produces the actual light.

**Land, Division of** (Division of Land). Division of a parcel of land into four (4) or more lots.

**Land, Irrigated** (Irrigated Land). Parcels that have surface or underground water diverted continuously or intermittently upon them for the production of crops or pasture, through the utilization of man-made improvements.

**Land Use Authority.** Anyone who has the authority to interpret or implement the city ordinances as defined by the Land Use Ordinance.

**Land Use Ordinance.** is defined in Title 10, Chapter 9a of the Utah Code.

**Levee.** A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**Levee System.** A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**Light Trespass.** The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

**Light, Direct** (Direct Light). Light emitted directly from the lamp, off the reflector or reflector diffuser or through the refractor or diffuser lens, of a luminaire.

**Light, Indirect** (Indirect Light). Direct Light that has been reflected or scattered off other surfaces.

**Lighting, Outdoor** (Outdoor Lighting). The nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

**Lighting, Outdoor, Temporary** (Temporary Outdoor Lighting). The specific illumination of an outside area or object by any man-made device located outdoors that produces light by any means for a period of less than seven (7) days, with at least 180 days passing before being used again.

**Lights, Fully Shielded** (Fully Shielded Lights). Outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report.

**Lot.**

1. A parcel or tract of land within a subdivision and abutting a public street, or a private street, which is or may be occupied by one building and the accessory buildings or uses customarily incident thereto, including such open spaces as are arranged and designed to be used in connection with the building according to the zone with which the lot is located.

2. A parcel or unit of land described by metes and bounds and held or intended to be held in separate lease or ownership; or a unit of land shown as a lot or parcel on a recorded subdivision map; or a unit of land shown on a plat used in the lease or sale or offer of lease or sale of land resulting from the division of a larger tract into two (2) or more smaller units.

**Lot Coverage.** Lot coverage shall be calculated by taking the ground area of the main and accessory buildings and dividing that total by the area of the lot.

**Lot Line, Front** (Front Lot Line). For an interior lot, the lot line adjoining the street for a corner lot or through lot, the lot line adjoining either street, as elected by the owner.

**Lot Line, Rear** (Rear Lot Line). Ordinarily, that line of a lot which is opposite and most distant from the front line of the lot. In the case of a triangular or gore-shaped lot, a line ten feet (10') in length within the parcel parallel to and at a maximum distance from the front lot line. In cases where these definitions are not applicable, the virgin town building inspector shall designate the rear lot line.

**Lot Line, Side** (Side Lot Line). Any lot boundary line not a front or rear lot line. A side lot line separating a lot from another lot or lots in an interior side lot line; a side lot line separating a lot from a street is a street side lot line.

**Lot, Corner** (Corner Lot). A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five degrees (135°).

**Lot, Depth of** (Depth of Lot). The horizontal distance between the front and rear lot lines measured in the main direction of the side lot line.

**Lot, Double Frontage** (Double Frontage Lot). A lot where the front lot line and back lot line both front on a street.

**Lot, Flag** (Flag Lot). A lot that has been approved by the town with access provided to the bulk of the lot by means of a narrow corridor.

**Lot, Interior** (Interior Lot). A lot other than a corner lot.

**Lot, Parking.** See Parking Lot.

**Lot, Restricted** (Restricted Lot). Any lot having particular problems in size, slope, contour or space requiring special action of the appeal authority.

**Lot, Right-Of-Way** (Right-Of-Way Lot). A strip of land of not less than sixteen feet (16') in width connecting a lot to a street for use as a private access to that lot.

**Lot, Width of** (Width of Lot). The horizontal distance between the side lot lines, measured at the required front setback line or rear setback line, whichever is shorter.<sup>10</sup>

**Lumen.** A unit of luminous flux. One-foot (1') candle is one (1) lumen per square foot. For the purposes of this ordinance, the lumen-output values shall be the initial lumen output ratings of a lamp.

**Luminaire.** This is a complete lighting system, and includes a lamp or lamps and a fixture.

**Luminaire, Height of** (Height of Luminaire). The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct light-emitting part of the luminaire.

**Luminaires, Grandfathered** (Grandfathered Luminaires). Luminaires not conforming to this code that were in place at the time this code was voted into effect. When an ordinance "grandfathers" a luminaire, it means that such already-existing outdoor lighting does not need to be changed unless a specified period is specified for adherence to the code.

**Manufactured home.** A structure transportable in one or more sections, which is built on a permanent chassis and must be attached to a permanent foundation and connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle." Said manufactured home shall be classified as a mobile home unless it is placed on a permanent foundation and complies with all applicable building and housing codes. Said manufactured home shall have a minimum of 1,000 square feet; a minimum 4:12 slope/pitch of roof. Brick veneer, stucco, or other similar materials are to be used on the exterior of the manufactured home. A transportable factory built housing unit constructed after June 15, 1976, according to the federal home construction and safety standards act of 1974 (HUD code), in one or more sections, and is identified by the manufacture's data plate bearing the date the unit was manufactured and a HUD label attached to the exterior of the home certifying the home was manufactured to HUD standards. <sup>11</sup>

**Manufactured Home Park or Subdivision.** A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

**Manufactured Home Park or Subdivision, Existing** (Existing Manufactured Home Park or Subdivision). A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**Manufactured Home Park or Subdivision, Expansion To An Existing** (Expansion To An Existing Manufactured Home Park Or Subdivision). The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Manufactured Home Park or Subdivision, New.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**Map, Official** (Official Map). A map which has been adopted as the official map of the town of virgin showing existing public streets, streets on plats of subdivisions which have been approved by the Virgin Town Land Use Authority, and/or other street extensions, widening, narrowing, or variations which have been accurately surveyed and definitely located.

**Mobile Home.** A detached single-family dwelling unit designed for long-term occupancy and to be transported on its own wheels (permanent or detachable), or on flatbed or other trailer and arriving at the site where it is to be occupied as a complete dwelling unit ready for occupancy except for connections to utilities and other minor work. Modular or prefabricated homes not placed on a permanent foundation shall be regarded and regulated as mobile homes.

**Mobile Home Lot.** A lot within a mobile home park or subdivision, designed and to be used for the accommodation of one (1) mobile home.

**Mobile Home Park.** A space designed for and approved by the Town of Virgin for occupancy by Mobile Homes, to be under single ownership or management, and meeting all requirements of the Virgin Town Zoning Ordinance and the Virgin Town Mobile Home Park ordinance for Mobile Home Parks.

**Mobile Home Space.** A space within a mobile home park, designed and to be used for the accommodation of one (1) mobile home.

**Mobile Home Subdivision.** A subdivision designed and intended for residential use where the lots are to be individually owned or leased, and occupied by mobile homes exclusively.

**Mobile Home, “Double-Wide.”** A mobile home conforming to the above definition of a mobile home and having a gross floor area of not less than 1,000 square feet. Double-wide mobile homes shall be regarded and regulated as conventional housing when they conform to applicable building and housing codes, and are placed on a permanent foundation which meets all applicable building and housing codes, incorporates a pitched roof in its design, utilizes block or equivalent skirting around the bottom of the unit, and has the towing tongue and wheel removed.

**Monopole Tower.** A tower constructed of tapered tubes that fit together symmetrically and are stacked one (1) section on top of another and bolted to a concrete foundation without support cables.

**Mobile Home, “Single-Wide.”** A mobile home conforming to the above definition of a mobile home, being a single unit not less than ten feet (10’) wide and having a gross floor area of not more than 1,000 square feet.

**Monument, Permanent** (Permanent Monument). A structure of concrete, masonry and/or metal permanently placed on or in the ground, including those expressly placed for surveying reference.

**Motel.** A building or group of buildings for the accommodation of transient guests, comprising individual sleeping or living units, and designed and located to serve the motoring public.

**Nuisance.** Any item, thing, manner or condition whatsoever that is dangerous to human life, or health, or renders soil, air, water, or food impure or unwholesome.

**Nuisance, Public.** A public nuisance is any item, thing, manner or condition which disrupts, injures, or endangers the comfort, repose, health or safety of a reasonable number of group or persons; or violates the provisions of the virgin town zoning ordinance; or in any way renders persons or groups of persons insecure in life or the use of property.

**Nursery, Child** (Child Nursery). An establishment, excluding a public school, for the care and/or the instruction of six (6) or more children other than members of the family residing on the premises.

**Occupancy, Long-Term.** (Long Term occupancy). Permanent occupancy; occupancy for a period of thirty (30) or more days.

**Occupancy, Short-Term.** Transient occupancy; occupancy for a period less than thirty (30) days.

**Occupancy, Temporary.** Short-term occupancy of a home or other structure.

**Open Space.** Space reserved in parks, courts, playgrounds, golf courses and other similar open areas, and those areas reserved to meet the density requirements of development.

**Ordinance, Zoning** (Zoning Ordinance). The Virgin Land Use Code (VULU) as presently adopted and as amended hereafter by the town council.



**Owner.** The owner in fee simple, or real property as shown in the records of the Washington County Recorder's Office and includes the plural as well as the singular, and may mean either a natural person, firm, association, partnership, trust, private corporation, other entities authorized by the state of Utah, or any combination of any of the foregoing.

**Parcel, Parent** (Parent Parcel). The existing parcel of record, as identified by individual tax parcel numbers, as of the effective date of this ordinance.

**Park, Travel Trailer** (Travel Trailer Park). See **Vehicle, Recreational** (Recreational Vehicle)

**Parking Lot.** An open area, other than a street, used for parking of more than four (4) automobiles and available for public use, whether free, for compensation, or accommodation for clients or customers.

**Parking Space, Off-Street** (Off-Street Parking Space). The space required to park one (1) passenger vehicle, which space shall meet the requirements of this ordinance.

**Person, Elderly** (Elderly Person). A person who is sixty-two (62) years or older who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

**Persons, Handicapped.** Disabled persons (see disabled/disability).

**Plan, Plot** (Plot Plan). A plat of a lot, drawn to scale, showing its actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and such other information as may be required by the Virgin Town Planning and Zoning Commission.

**Plan, Site** (Site Plan). A plan containing the information required by VULU chapter 1.10 of this Ordinance.

**Plan, Subdivision Concept** (Subdivision Concept Plan). A sketch or concept drawing of a proposed division of land prior to the preliminary plat to enable a subdivider to reach a general agreement with the Planning Commission as to the form of the plat and the objectives of these regulations, and to receive guidance as to the requirements for subdivisions within the Town.

**Planning and Zoning Administrator.** The person appointed by the Town to perform the duties and responsibilities of the Planning and Zoning Administrator, as defined by the Town ordinances.

**Planning and Zoning Commission.** The Virgin Town Planning And Zoning Commission.

**Plat, Final** (Final Plat). A map of a subdivision, required of all subdivisions, which is prepared for final approval and recordation, which has been accurately surveyed, so that streets, lots, and other divisions thereof can be identified; such plat being in conformity with the ordinances of the town and title 10, chapter 9a, of the Utah Code annotated, 2006, as amended.

**Plat, Preliminary** (Preliminary Plat). A map made for the purpose of showing the design of a proposed subdivision and the existing conditions in and around it. Such map need not be essentially a study plan which, when approved, will serve as a basis for an accurate or final survey of the property. The preliminary plat is preparation of the final plat.

**Recreational Vehicle (RV), Motor Home, And Travel Trailer.** A recreational vehicle (RV), motor home, or travel trailer is a vehicle designed and/or constructed to travel on public thoroughfares which is: (i) built on a single chassis; (ii) designed to be self-propelled or tow-able by a truck; and (iii) designed primarily for recreational, camping, travel, or seasonal use and not for use as a permanent dwelling but as temporary living quarters. In this ordinance, a recreational vehicle, travel trailer & motor home are collectively referred to as "recreational vehicle" or "RV".<sup>12</sup>

**Residential Hosting.** The act of renting, part, but not all, of residential Dwelling Unit on a temporary basis for any period less than thirty (30) consecutive days, regardless of the type and extent of consideration or remuneration received by the Owner, and where the Owner resides in the remainder of the Dwelling Unit.

**Residential Hosting Facility or RHF.** A residential Dwelling Unit where part, but not all, of the Dwelling Unit is used, or advertised for use, on a temporary basis for any period less than thirty (30) consecutive days, regardless of the type and extent of consideration or remuneration received by the Owner, and where the Owner resides in the remainder of the Dwelling Unit. Notwithstanding the definition of Dwelling Unit, within this Section, Boarding Houses, Lodging Houses, Hotels, Motels, Tents, Campground Cabins, Travel Trailers, Recreational Vehicles (“RV”), Mobile Homes and Congregate Living Facilities may not be an RHF.

**RHF Guest Quarter.** That portion of a RHF comprised of a bedroom or sleeping area and bathroom where a guest or guests privately reside.

**RHF Permit.** An annually renewed permit an Owner of an RHF must obtain and maintain in order to utilize his/her/their Dwelling Unit as a RHF where Residential Hosting may occur. The standards and requirements for obtaining and maintaining a RHF Permit is set forth in Section 2 of VULU Chapter 30.<sup>13</sup>

**Rubbish.** Rubbish means and includes discarded items of metal, cardboard, paper, wood, plastic, or any other waste material.<sup>14</sup>

**Sanitary Sewer Authority.** The Utah State Health Department.

**School.** A public kindergarten, elementary, middle, junior high or high school.

**Sea Level, Mean (Mean Sea Level).** For purposes of the national flood insurance program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s flood insurance rate map are referenced.

**Service Station, Automobile (Automobile Service Station).** A place where gasoline, or any other motor fuel for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, but not including automobile repair. An Automobile Service Station may include a Convenience Store and a restaurant within the primary commercial building, subject to approval by the Land Use Authority as required elsewhere in the Ordinance.<sup>15</sup>

**Setback.** The distance that is required by the Land Use Ordinance to be maintained in an undeveloped state between a structure and the property line of the lot on which the structure is located. The term “setback” refers to a required minimum distance while the term “yard” refers to the areas to the front, side and rear of a primary structure.<sup>16</sup>

**Setback, Corner (Corner Setback).** The distance from the street side property line not designated as a “front setback” to the closest distance a structure may be located from the property line.<sup>17</sup>

**Setback, Front (Front Setback).** The distance from the front property line to the closest point a structure can be constructed to the front property line.<sup>18</sup>

**Setback, Side (Side Setback).** The distance from the interior side property lines to the closest distance a structure may be located from the property line.<sup>19</sup>

**Setback, Rear (Rear Setback).** The distance from the rear property line to the closest distance a structure may be located from the property line.<sup>20</sup>

**Shop, Body and Fender** (Body And Fender Shop). A facility for major automobile, truck, mobile home, recreational coach or recreation vehicle repairs to body, frame or fenders, and including rebuilding.

**Short-Term Rental** or **STR**. An entire residential Dwelling Unit used as a short-term rental for any period less than thirty (30) consecutive days, regardless of the type and extent of consideration or remuneration received by the Owner. Notwithstanding the definition of Dwelling Unit, within this Section, Boarding Houses, Lodging Houses, Hotels, Motels, Tents, Travel Trailers, Recreational Vehicles (“RV”), Mobile Homes and Congregate Living Facilities (as defined in VULU Chapter 25) may not be an STR.<sup>21</sup>

**Sign**. A presentation or representation of words, letters, figures, designs, pictures or colors, publicly displayed so as to give notice relative to a person, a business, an article of merchandise, a service, an assemblage, a solicitation, or a request for aid; also, the structure or framework or any natural object on which any sign is erected or is intended to be erected or exhibited or which is being used or is intended to be used for sign purposes.

**Sign, Advertising** (Advertising Sign). A sign which advertises a business, profession, commodity, service or entertainment conducted, sold, or offered other than on the premises where the sign is displayed, or a sign in which more than twenty-five percent (25%) of the area of the sign is devoted to advertising a use or product which does not constitute the principal activity or product of the establishment of the premises (i.e. A soft-drink-beverage brand advertisement on a sign at a gasoline station.)

**Sign, Animated** (Animated Sign). A sign which involves motion or rotation of any part, created by artificial means, or which displays flashing, revolving or intermittent lights.

**Sign, Area** (Area Sign). The area in square feet of the smallest rectangle enclosing the total exterior surface of a sign having but one (1) exposed exterior surface; should the sign have more than one (1) surface, the sign area shall be the aggregate of all surfaces measured as above which can be seen from any one (1) direction at one (1) time.

**Sign, Business** (Business Sign). A sign which directs attention to a business, profession, commodity, service or entertainment conducted, sold, or manufactured upon the same lot. A sign advertising a particular product or line of products sold on the premises but not constituting the principal activity of the establishment may be included, provided that not more than twenty-five percent (25%) of the area of the sign is devoted to such advertising.

**Sign, Development** (Development Sign). A sign indicating the name of, and information pertinent to, new construction.

**Sign, Freestanding** (Freestanding Sign). A sign located directly on the ground, or on any support other than a building, whether or not the principal purpose of such support is to display the sign.

**Sign, Identification And Information** (Identification And Information Sign). A sign displayed to indicate the means or nature of a building, or of a use.

**Sign, Illuminated** (Illuminated Sign). A sign in which a source of light is used in order to make the message readable. This definition shall include internally and externally lighted signs.

**Sign, Marquee** (Marquee Sign). Any sign added to or made an integral part of a marquee.

**Sign, Real Estate** (Real Estate Sign). A sign identifying property for sale, lease or rent.

**Sign, Residential** (Residential Sign). A sign which gives notice of the address of a residential building, the name of the resident thereof, or conditions of use of parking facilities serving a residential use.

**Sign, Wall, Flat** (Flat Wall Sign). A sign affixed to or painted on the wall of a building in such a manner that the surface of the sign is parallel with the prevailing surface of the wall upon which the sign is displayed, and which does not project beyond such surface more than ten inches (10”), nor above the roof or cornice line of such a building.

**Site or Unit.** A dedicated space of ground occupied or to be occupied by an RV, cabin, or tent. <sup>22</sup>

**Slope, Average Percent Of** (Average Percent Of Slope). An expression of rise and fall in elevation along a line perpendicular to the contours of the land, connecting the highest point of land to the lowest point of land within an area or within a lot. A vertical rise of one-hundred feet (100’) between two (2) points one-hundred feet (100’) apart, measured in a horizontal plane is a one-hundred percent (100%) slope.

**Stable, Private** (Private Stable). A detachable accessory building for the keeping of horses owned by the occupant of the premises and not kept for remuneration, hire or sale.

**Stable, Public** (Public Stable). Any stable where horses are boarded and/or kept for remuneration, hire or sale.

**Story.** That portion of a building included between the surface of any floor and the floor or ceiling next above it.

**Story, Half.** A partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four feet (4’) above the floor of such story; and the floor area of which does not exceed two-thirds (2/3) of the floor area of the floor next immediately below it, provided, however, that any partial story used for one (1) or more dwelling units shall be deemed a full story.

**STR Local Agent.** An individual who is a permanent resident of the Town and who is given actual and unqualified written authority from the Owner of an STR Unit (if the Owner is not a permanent resident of the Town) to address and correct all maintenance, day to day operations and nuisance concerns relating to the STR Unit.

**STR Permit.** An annually renewed permit an Owner of an STR Unit must obtain and maintain in order to utilize his/her/their Dwelling Unit as a STR Unit where Short-Term Rental use may occur. The standards and requirements for obtaining and maintaining a STR Permit is set forth in Section 1 of VULU Chapter 30.

**STR Unit.** A residential Dwelling Unit located in either a Residential, Agricultural or Highway Resort Zone of the Town which has received an STR Permit for use by the Owner as a Short-Term Rental. <sup>23</sup>

**Street.** A right of way, which has been dedicated to the town and accepted by the town council, or which the town has acquired by prescriptive right, deed or by dedication.

**Street, Arterial** (Arterial street). A major traffic way, which is intended to serve as a controlled-access highway, major street parkway, or other equivalent term to identify those streets comprising the basic structure of the street plan. Arterial streets shall have an eighty-foot (80’) right of way.

**Street, Collector, Major** (Major Collector street). A street, which is the main means of access to the major street system. Major collector streets shall have a sixty-six-foot (66’) right of way.

**Street, Collector, Minor** (Minor Collector street). A street, which is supplementary to a collector street and of limited continuity, which serves or is intended to serve, the local needs of a neighborhood. Minor collector streets shall have a sixty-foot (50’) right of way.<sup>24</sup>

**Street, Local** (Local street). A minor street, which provides access to abutting properties and protection from through traffic. Local streets shall have a sixty-foot (50') right of way.<sup>24</sup>

**Street, Private** (Private street). A right of way, which has been reserved by dedication unto the subdivider or lot owners to be used as a private access to serve property and complying with the adopted street cross section standards of the town for the type of street as described above. All private streets shall be approved by the Town, constructed to the same standards as required of public streets, and maintained by the subdivider or other private agency.

**Street, Public** (Public street). A street, which affords access to abutting property, including highways, roads, lanes, avenues and boulevards.

**Structure.** Anything constructed, the use of which requires fixed location on the ground, or attachment to something having a fixed location upon the ground; includes “building” (see definition of building), and a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**Structure, Historic** (Historic Structure). Any structure that is:

- a. Listed individually in the national register of historic places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register; or
- b. Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district; or
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of interior; or
- d. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either (i) by an approved state program as determined by the secretary of the interior; or (ii) directly by the Secretary Of The Interior in states without approved programs.

**Structure, Nonconforming** (Nonconforming Structure). A structure that: (i) legally existed before its current land use designation; and (ii) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of the land.

**Sub Divider.** Any person, corporation, partnership, association, individual, firm, trust or agent dividing or proposing to divide land resulting in a subdivision.

**Subdivision.** Any land that is divided, re-subdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms and conditions. “subdivision” includes: (i) the subdivision of land for all non-residential uses; that is, commercial/industrial purposes; (ii) the subdivision or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat or other recorded instrument.

**Subdivision Concept Plan.** A sketch or concept drawing of a proposed division of land prior to the preliminary plat to enable a sub divider to reach general agreement with the Planning Commission as to the form of the plat and the objectives of these regulations, and to receive guidance as to the requirements for subdivisions within the town.

**Subdivision, Cluster** (Cluster Subdivision). A housing development in a rural setting that is characterized by compact lots and common open space, and where the natural features of the land are maintained to the greatest extent possible.

**Systems, Alternative Energy.** A ground source heat pump, wind or solar energy system.

**System, building-Integrated Solar Energy.** A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building including, but not limited to, photovoltaic or hot water solar systems contained within roofing materials, windows, skylights and awnings.

**System, Closed Loop Ground Source Heat Pump.** A system that circulates a heat transfer fluid, typically food-grade antifreeze, through pipes or coils buried beneath the land surface or anchored to the bottom in a body of water.

**System, Flush-Mounted Solar Energy.** A roof-mounted system mounted directly abutting the roof. The pitch of the solar collector may exceed the pitch of the roof up to five percent (5%) but shall not be higher than ten inches (10") above the roof.

**System, Ground Source Heat Pump.** A system that uses the relatively constant temperature of the earth or a body of water to provide heating in the winter and cooling in the summer. System components include open or closed loops or pipe, coils or plates; a fluid that absorbs and transfers heat; and a heat pump unit that processes heat for use or disperses heat for cooling; and an air distribution system.

**System, Horizontal Ground Source Heat Pump.** A closed loop ground source heat pump system where the loops or coils are installed horizontally in a trench or series of trenches no more than twenty feet (20') below the land surface.

**System, Open Loop Ground Source Heat Pump.** A system that uses groundwater as a heat transfer fluid by drawing groundwater from a well to a heat pump and then discharging the water over land, directly in a water body or into an injection well.

**System, Passive Solar Energy.** A system that captures solar light or heat without transferring it to another form of energy or transferring the energy via a heat exchanger.

**System, Photovoltaic.** A solar energy system that converts solar energy directly into electricity.

**System, Solar Energy.** A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.

**Tent.** A collapsible shelter of canvas or other material stretched and sustained by poles and used for shelter/sleeping quarters outdoors.<sup>25</sup>

**Travel Trailer.** A vehicular portable structure designed as a temporary dwelling for travel and recreational/vacation uses.

**Truck Stop.** An occupancy which provides especially for the servicing of trucks, with incidental operations similar to those permitted in automobile service stations.

**Use or Structure, Accessory** (Accessory Use Or Structure). A use or structure on the same lot with, and of a name customarily incidental and subordinate to, the principal use or structure.

**Use, Accessory** (Accessory Use). A use subordinate and incident to the main use of a building or land located upon the same lot or parcel.

**Use, Conditional** (Conditional Use). A land use that because of its unique characteristics or potential impact on the Town of Virgin, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts. A conditional use permit is required, pursuant to this ordinance.

**Use, Functionally Dependent** (Functionally Dependent Use). A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Use, Nonconforming** (Nonconforming Use). A use of land that: (i) legally existed before its current land use designation; (ii) has been maintained continuously since the time the land use ordinance governing the land changed; and (iii) because of one or more subsequent land use changes, does not conform to the regulations that now govern the use of the land.

**Utilities.** See Improvements, Public.

**Utility, Public** (Public Utility). Underground water, power, sewer, communication systems, or natural gas carrier.

**Variance.** A grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (for complete requirements, see section 60.6 of the NFIP.)

**Vehicle, Recreational** (Recreational Vehicle). A vehicle designed and/or constructed to travel on the public thoroughfare in accordance with the provisions of the Utah motor vehicle act which is: (i) built on a single chassis; (ii) two and four-tenths (2.4) square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently tow able by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Vehicle and Travel Trailer Park, Recreational** (Recreational Vehicle And Trailer Park). An area or tract of land or a designated section within a mobile home park where lots are rented or held for rent to one (1) owner or user of a recreational vehicle for a temporary time, not to exceed 180 days.

**Vertical Ground Source Heat Pump.** A closed loop ground source heat pump system where the loops or coils are installed vertically in one or more borings below the land surface.

**Violation, Flood Management.** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the national flood insurance program regulations is presumed to be in violation until such time as that documentation is provided.

**Wind Turbine.** Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

**Wind Turbine, Residential.** A wind turbine of ten kilowatt (10 kw) name plate generating capacity or less.

**Wind Turbine, Small.** A wind turbine of one hundred-kilowatt (100 kw) nameplate generating capacity or less.

**Wind Turbine, Utility.** A wind turbine of more than one hundred kilowatt (100 kw) name plate generating capacity.

**Wind Turbine, Vertical Axis.** A type of wind turbine where the main rotor shaft runs vertically.

**Yard.** An open Space on a Lot, other than a Court, which Open Space is unoccupied and unobstructed from the ground upward by buildings or structures, except as permitted elsewhere in this Ordinance.<sup>26</sup>

**Yard, Front (Front Yard).** A space on the same lot with a building, between the front line of a building and the front lot line, and extending across the full width of the lot. The “depth” of the front yard is the minimum distance between the front lot line and the front line of the building.

**Yard, Rear (Rear Yard).** A space on the same lot with a building, between the rear line of the building and the rear lot line, extending across the full width of the lot. The “depth” of the rear yard is the minimum distance between the rear lot line and the rear line of the building.

**Yard, Side (Side Yard).** A space on the same lot with a building, between the sideline of the building, and the side lot line and extending from the front yard to the rear yard. The “width” of the side yard is the minimum distance between the side lot line and the sideline of the building.

**Zone.** See district.

**Zoning Administrator.** The local official designated by the virgin town council to enforce the regulations of this ordinance; the Virgin Town Zoning Administrator may also be the Virgin Town building Inspector.

## **1.7. BUILDING PERMIT REQUIRED**<sup>27</sup>

The construction, alteration, repair or removal of any building or structure, or any part thereof, as provided or as restricted in this ordinance, shall not be commenced until zoning approval has been granted by the Virgin Town Zoning Administrator. The Zoning Administrator will determine if the request for a building permit is in accordance with the ordinance.

### **1.7.a. EXCEPTIONS**

**1.7.a.i.** Non-permanent, skid mounted utility sheds (i.e. cargo containers, prebuilt utility sheds) under 400 square feet without public utility connections. Must maintain side and rear setbacks for underlying zone.

### **1.7.1. OWNER-BUILDER PERMIT**

Any person intending to build primarily for his or her own use may apply for a building permit as an owner-builder. No structure built under such a permit may be sold or otherwise transferred within five (5) years of completion; a written agreement to this effect shall be required as part of the application. In the event of death or other catastrophe, the homeowner/applicant may request release from the owner-builder five (5) year agreement to the appeal authority. Application for premature release from this agreement must be accompanied by the building inspector's approval and report of a complete new inspection of all systems.



**1.7.2. COMMENCEMENT OF WORK**

If substantial construction of the primary structure or building subject to the building permit has not been started within ninety (90) days from issuance of the permit, the original permit is void and a new building permit will be required. The portion of the original permit fee assessed for inspections never completed may be applied toward fees for the new application, which will be charged at the current inspection and administrative fee rates. Impact fees will be reassessed and used or unused impact fees shall be credited toward the current impact fees payable with the new application.

**1.7.3. COMPLETION OF WORK**

Construction shall be completed within one (1) year of commencement of work.

**1.7.4. EXTENSIONS <sup>27</sup>**

The holder of a building permit may be granted one (1) extension of six (6) months, provided the applicant show good cause why construction cannot be completed within the allowable time. owner-builders may be granted further extensions by a conditional building permit that include conditions to mitigate any negative impacts of ongoing construction perceived by the Virgin Town Zoning Administrator to conflict with town goals and standards. Any exception to these requirements shall be made by the Virgin Town Zoning Administrator, provided that the exception is not granted due to a self-imposed hardship. Conditions of approval may include, but not be limited to, screening of construction material, daily clean-up of trash, dust control measures, and other nuisance abatement measures. The Virgin Town Zoning Administrator may approve, approve with conditions, or deny any request for extension, including factual findings with any denial. In the event of expiration of a permit and/or denial of an extension, applicant’s building permit shall be revoked, and a new building permit shall be required to continue work. Violations of the building Permit policies shall be subject to penalties as outlined in VULU Chapter 1.14.

**1.8. OCCUPANCY PERMIT REQUIRED**

Land, building or premises in any district shall hereafter be used only for a purpose permitted in such district and in accordance with district regulations. A permit of occupancy shall be issued by the Virgin Town Zoning Administrator to the effect that the use, building or premises will conform to provisions of this and related ordinances prior to occupancy, for any building erected, enlarged or altered structurally, or the occupancy or use of any land, except permitted for agricultural uses. Such a permit is needed whenever use or character of any building or land is to be changed. Upon written request from the owner, a permit shall be issued covering any lawful use of buildings or premises existing on the effective date of this amendment, including non-conforming buildings and uses.

**1.9. EXCAVATION PERMIT REQUIRED**

**1.9.1. PERMIT REQUIREMENTS**

**1.9.1.A. 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.

### **1.9.1.B. Streets and Sidewalks**

**1.9.1.B.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.

**1.9.1.B.2.** No person shall excavate any sidewalk without first obtaining a permit from authorized personnel of the Town.

### **1.9.1.C. 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).

### **1.9.1.D. Franchise; Public Utility**

**1.9.1.D.1.** Nothing in this Chapter shall be construed to waive the franchise required for any person by Town ordinances or laws of Utah.

**1.9.1.D.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.

## **1.9.2. BOND REQUIRED**

### **1.9.2.A. 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:

**1.9.2.A.1.** With good and sufficient surety.

**1.9.2.A.2.** By a surety company authorized to transact business within the state.

**1.9.2.A.3.** Satisfactory to the Town attorney in form and substance.

**1.9.2.A.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.

**1.9.2.A.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.

### **1.9.2.B. 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.

## **1.9.3. SUBJECT AND EXCLUDED EXCAVATIONS**

### **1.9.3.A. 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.

### **1.9.3.B. 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.)

## **1.9.4. STANDARDS**

### **1.9.4.A. 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.

### **1.9.4.B. Backfill**

**1.9.4.B.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.

**1.9.4.B.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.

### 1.9.4.C. Restoration of Hard Surfaces

**1.9.4.C.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.

**1.9.4.C.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.

**1.9.4.C.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:

**1.9.4.C.3.A.** when permanent paving material is not available;

**1.9.4.C.3.B.** when weather conditions prevent permanent replacement;

**1.9.4.C.3.C.** when an extension of time is granted by the Town Engineer.

**1.9.4.C.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.

### 1.9.4.D. Restoring Bituminous; Concrete or Asphalt Street Surfaces

**1.9.4.D.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:

<b>1.9.4.D.1.A.</b>	Passing 1 inch (1") sieve	100 percent (100%)
<b>1.9.4.D.1.B.</b>	Passing 3/4 inch (3/4") sieve	85-100 percent (85% - 100%)
<b>1.9.4.D.1.C.</b>	Passing #4 sieve	45-65 percent (45% - 65%)
<b>1.9.4.D.1.D.</b>	Passing #10 sieve	30-50 percent (30% - 50%)
<b>1.9.4.D.1.E.</b>	Passing #200 sieve	5-10 percent (5% - 10%)

**1.9.4.D.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.

**1.9.4.D.3. Policy.**

**1.9.4.D.3.A.** 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:

**1.9.4.D.3.A.i.** flow-able backfill one (1) bag mix in trench (at Town's discretion);

**1.9.4.D.3.A.ii.** minimum patch width two foot (2') each side of trench;

**1.9.4.D.3.A.iii.** saw-cut edges of patch;

**1.9.4.D.3.A.iv.** 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);

**1.9.4.D.3.A.v.** patch shall be three inches (3") asphalt over nine inches (9") granular base meeting town standards;

**1.9.4.D.3.A.vi.** seal the saw cut edges with a rubberized crack fill material.

**1.9.4.D.3.B.** 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:

**1.9.4.D.3.B.i** flow-able backfill (one (1) bag mix) in trench (at Town's discretion);

**1.9.4.D.3.B.ii.** minimum patch width - two foot (2') each side of trench;

**1.9.4.D.3.B.iii** saw cut edges of patch.

**1.9.4.D.3.B.iv.** 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).

**1.9.4.D.3.B.v.** 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.

**1.9.4.D.3.B.vi.** Fill the saw cut edges with a rubberized crack fill material.

**1.9.4.D.3.C.** Exceptions to the flow-able backfill requirements set forth above in subparts 1.9.4.D.3.A. and 1.9.4.D.3.B. 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 4.2., provided that such contractor, utility company or other entity working on new Town streets provides the following:

**1.9.4.D.3.C.i.** 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 4.2., 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

**1.9.4.D.3.C.ii.** 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.

#### **1.9.4.E. Conflicts**

Where the provisions of this section conflict with the provisions of other sections, the provisions of this section shall take precedence.

#### **1.9.4.F. 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.

#### **1.9.4.G. Concrete Base, Bituminous Wearing Surfaces**

This type of surfacing shall be constructed as above described.

#### **1.9.4.H. 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.

#### **1.9.4.I. Jetting Pipe**

Jetting pipe by means of water under pressure or compressed air is permitted only when approved by the Town.

### **1.9.5. 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.

**1.9.6. 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.

**1.9.7. 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.

**1.9.8. 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.

**1.9.9. 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.

**1.10. SITE PLANS REQUIRED**

A detailed site plan, with scale and sheet size to be determined by the Virgin Town Planning and Zoning Commission or the Virgin Town Zoning Administrator, when authorized, shall be filed as a part of any application, prior to request for a zoning permit. The site plan shall show, where pertinent:

**1.10.1.** scale of plan;

**1.10.2.** direction of North point;

**1.10.3.** lot lines, together with adjacent streets, roads, and rights-of-way;

**1.10.4.** location of all existing structures on subject property and adjoining properties (complete with dimensions including utility lines, poles, etc.);

**1.10.5.** location of the proposed construction and improvements including the location and dimensions of all signs;

**1.10.6.** motor vehicle access, including individual parking spaces, circulation patterns, curb, gutter, and sidewalk location;

**1.10.7.** necessary explanatory notes;

**1.10.8.** name, address and telephone number of builder and owner;

**1.10.9.** all other information that may be required as is determined by the Virgin Town Planning and Zoning Commission or the Virgin Town Zoning Administrator when authorized.

## **1.11. INSPECTION**

The Virgin Town Zoning Administrator is authorized to inspect all buildings and structures in the course of construction, modifications or repair and to inspect land uses to determine compliance with the provisions of the zoning ordinance. The Virgin Town Zoning Administrator or any authorized employee of the Town of Virgin shall have the right to enter the premises for the purpose of determining compliance with the provisions of this ordinance; provided, that such entry shall be exercised only at reasonable hours and that in no case shall entry be made to any occupied building in the absence of the owner or tenant thereof without written permission of the owner, or the written order of a court of competent jurisdiction.

## **1.12. ENFORCEMENT**

### **1.12.1. ENFORCEMENT**

The Virgin Town Zoning Administrator is authorized as the officer charged with the enforcement of this ordinance. It shall be the duty of Zoning Administrator to enforce the provisions of this ordinance, and shall enforce all provisions, and the failure of the Zoning Administrator to do so shall not legalize any violations of such provisions. The Zoning Administrator, in addition to certified peace officers, shall have authority to issue citations as provided under the Utah Criminal Code for violations of any provision of this ordinance.

### **1.12.2. COMPLAINTS <sup>28</sup>**

The Town of Virgin encourages citizens to bring forward legitimate grievances regarding any violation of law or ordinance which affects them. In light of the heavy workload sometimes visited upon our staff and volunteers, it is to the advantage of all concerned to have a procedure for the investigation of the more serious allegations and underlying circumstances so that complaints can be resolved.

As a rule, complaints will be handled according to the following steps:

1. Citizen submits a complaint to a local police officer, or completes a complaint form or letter, available at Town Hall or the town website, and submits it to the Town Clerk. Unsigned complaints may not be investigated.
2. If received at Town Hall, Clerk date-stamps the complaint after verifying that:
  - a. Signature is readable or printed name of complainant is included;
  - b. complaint is clearly described and identified;
  - c. complainant has described how the alleged violation has personally affected him or her; and



- d. any efforts made to resolve the problem, including contacts with associated property owners, are described.
3. If the complaint was received by the police, an officer determines whether he or she should proceed to investigate. If the complaint was received by the Town, the clerk shall file the original complaint in a master Complaints file including all complaints received in chronological order, make a copy to attach to the Complaint Log and begin investigation. Complaints involving private information about individuals will be investigated by the Mayor or his designee.
4. The clerk may consult with the Zoning Administrator, the Mayor, or others to determine if the complaint requires official town action. If found to require further investigation, Town Clerk shall notify the complainant, in writing or by phone, as soon as practicable, that the office acknowledges receipt of the complaint, and that the complaint is under investigation. If it is determined the complaint should be dismissed, the clerk shall notify the complainant of the reason for dismissal. Phone calls shall be logged in complaint file.
5. Dismissal may result for various reasons, including but not limited to:
  - a. the action complained of is not a violation of any law or ordinance;
  - b. the action is a violation of a law not enforceable by the Town;
  - c. the complaint is determined to be frivolous;
  - d. investigation showed the complaint to be resolved or untrue;
  - e. the action complained of has been satisfactorily addressed in the past;
  - f. a seeming violation of the ordinance is actually a legal non-conformity;
  - g. the complaint is of a nuisance not specifically addressed in the ordinance (this case may result in a request that Planning and Zoning consider amending the ordinance to avoid future nuisance)
6. If the complaint is found to have merit, Clerk shall call or write the subject of the complaint and ask that the problem be corrected, logging the results in the complaint file. If the complaint is found to have merit requiring official town action, the Mayor will be informed and the complaint will be prioritized based on anticipated risk to and impact on complainant and the public. When it is determined to take action, the complaint shall be addressed under a Complaints item on a Town Council agenda.
7. Complaint items shall be addressed in summary by the Town Council within the next two regularly scheduled meetings, as follows. Dismissed complaints and those under investigation will be reported in summary in work meeting, and those requiring official action of the council will be addressed under a separate item in the regular council meeting. Town Clerk shall give 48-hour notice to both complainants and subjects of complaints, in writing or by phone, when complaints are scheduled for council action, and when final action is decided upon. Copies of public and private notices and excerpts from meeting minutes shall be included in the complaint file.

### **1.12.3. RELATIONSHIP TO OTHER ORDINANCES**

No business license, building permit, occupancy permit, street encroachment permit, water connection, sewer connection or other permits, licenses or services provided by the Town of Virgin shall be granted to any person whose use of land, use of structures or whose construction of buildings or other structures is in violation of this ordinance, except those uses for which a valid order of the Appeal Authority or a court of competent jurisdiction has been issued.

#### **1.12.4. VIOLATION UNDER PREVIOUS ORDINANCES**

The adoption of this ordinance shall not void or abate any violations occurring under the Town of Virgin zoning ordinance as heretofore in effect, nor any prior zoning ordinance providing for zoning of property within the Town of Virgin, nor shall it affect any debt or fee which has accrued any debt imposed, any penalty incurred, any action or proceeding commenced under or by virtue of such ordinances.

#### **1.12.5. EXTRAORDINARY REMEDIES**

The Town of Virgin may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate action or actions or proceedings to prevent, enjoin, abate or remove the unlawful building, use or act carried on in violation of this ordinance.

#### **1.13. NUISANCE AND ABATEMENT**

Any building or structure erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this ordinance and any use of land, building or premises established, constructed or maintained contrary to the provisions of this ordinance shall be, and the same is hereby, declared to be unlawful and a public nuisance. The local attorney shall, upon request of the Virgin Town Council, at once commence action or proceedings for abatement and removal or enjoinder thereof in a manner provided by law and take other steps and apply to such courts as may have jurisdiction to grant such relief, as provided by law. The remedies provided for herein shall be cumulative and not exclusive.

#### **1.14. PENALTIES**

Any person, firm or corporation (as principal, agent, employee or otherwise) violating, causing, or permitting violation of the provisions of this ordinance shall be guilty of a misdemeanor, and punishable by not more than six (6) months in jail and/or a fine not to exceed \$299.00. Such person, firm or corporation intentionally violating this ordinance shall be deemed to be guilty of a separate offence for each day during which portion of any violation of this ordinance is permitted or continued by such person, firm, or corporation, and shall be punishable as herein provided.

#### **1.15. SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion or portions of this ordinance.

#### **1.16. AMENDMENTS**

The Town of Virgin may from time to time amend the number, shape, boundaries, or areas of any district, or any regulation or any other provision of the zoning ordinance, but any such amendment shall not be made or become effective until after ten (10) days published notice and public hearing before the Planning and Zoning Commission and unless the same shall have been proposed by or be first submitted to the Virgin Town Planning and Zoning Commission for its recommendation, which shall be returned within thirty (30) days after the public hearing, or as soon thereafter as possible.

In the case of an application by a property owner or other citizen for zone change or other amendment, the Virgin Town Planning and Zoning Commission, as a pre-requisite to the consideration of such application, may require that such applicant, at the applicant's expense, furnish to the commission title evidence, in such form as the commission may determine, indicating the ownership of the property to be affected by the proposed amendment and the interest therein of the applicant, and may also require that notice of such proposed amendment be given to all parties claiming an interest in such property.<sup>27</sup>

### **1.17. HEARING AND PUBLICATION AND NOTICE BEFORE AMENDMENT**

Before finally adopting any such amendment, the Virgin Planning and Zoning Commission shall hold a public hearing thereon, at least ten (10) days notice of the time and place of which shall be given by at least one (1) publication in a newspaper of general circulation in the Town of Virgin. Each such hearing notice shall be mailed to each affected entity at least ten calendar days before the hearing and posted in at least three public locations within Virgin or on the municipality's official website.

### **1.18. LICENSING<sup>29</sup>**

**1.18.1.** Any non-resident person engaging in business for more than one day per year, except for human and animal health care and maintenance providers (including but not limited to doctors, veterinarians, farriers, and the like), or structure and grounds maintenance and repair where property owner or resident is the customer of a service provider; and any resident repeatedly using his or her property for a business purpose within the Town of Virgin, shall have a Virgin Town business or home occupation license, non-resident vendor license, and/or temporary use permit, as applicable.

**1.18.2.** All departments, officials and public employees of the Town of Virgin which are vested with duty or authority to issue permits or licenses shall comply with the provisions of this ordinance and shall not issue a permit or license for uses, buildings, or purposes where the same would be in conflict with the provisions of this ordinance, and any such permit or license, if issued in conflict with the provisions of this ordinance, shall be null and void.

### **1.19. FEES<sup>30</sup>**

Applicants may be assessed fees for business, home occupation, building, occupancy, conditional use and other permits, and development approval, Virgin Town Planning and Zoning Commission and Virgin Town Appeal Authority hearings, and such other services as are required by this ordinance to be performed by public officers or agencies. Such fees shall be established by the Town of Virgin and shall be in amounts reasonably necessary to defray costs to the public.

### **1.20. GUARANTEES**

applicants for development projects may be required to post bonds or escrow deposits ensuring satisfactory installation of improvements or, in the event of project abandonment, reclamation of land.

### **1.21. EMINENT DOMAIN**

Notwithstanding any other provision of law, neither the Town of Virgin nor any of its subdivisions shall use eminent domain to take private property without the consent of the owner for economic development. The term "economic development" means any activity to increase tax revenue, tax base, employment, or general economic health, when that activity does not result in (i) the transfer of land to public ownership, such as for a road, hospital or military base; or (ii) the transfer of land to a private entity that is a common carrier, such as a railroad, utility, or toll-road. Notwithstanding any other provision of law, neither Virgin nor any of its subdivisions shall use eminent domain to take private property without the consent of the owner to be used for private commercial, financial, retail, or industrial enterprise, except that property may be transferred or leased (i) to private entities that are public utilities or common carriers such as a railroad or toll-road; and (ii) to private entities that occupy an incidental area within a public project, such as a retail establishment on the ground floor of a public building.

- <sup>1</sup> As amended 2013.08
- <sup>2</sup>As amended by ordinance #2015-092315-1 BOA replaced the Appeal Authority
- <sup>3</sup>As repealed and replaced by ordinance #2015-092315-1 Appeal Authority
- <sup>4</sup>As amended August 2013 pursuant to ordinance #082813-B
- <sup>5</sup>As amended July 2016 pursuant to ordinance #2016-072716-3
- <sup>6</sup>As amended July 2016 pursuant to ordinance #2016-072716-3
- <sup>7</sup>As amended July 2016 pursuant to ordinance #2016-072716-3
- <sup>8</sup> As amended pursuant to ordinance # 2013-082813-B
- <sup>9</sup> As amended September 2013 pursuant to ordinance #13-092513-2
- <sup>10</sup>As amended pursuant to Ordinance #2017-1
- <sup>11</sup>As amended Feb 28, 2007
- <sup>12</sup> As amended July 2016 pursuant to ordinance #2016-072716-3
- <sup>13</sup>As amended pursuant to ordinance # 2018-1
- <sup>14</sup> As amended 9-26-2013
- <sup>15</sup>As amended pursuant to ordinance #2017-032217-1
- <sup>16-20</sup> As amended pursuant to ordinance #2017-1
- <sup>21</sup>As amended pursuant to ordinance # 2018-1
- <sup>22</sup> As amended July 2016 pursuant to ordinance #2016-072716-3
- <sup>23</sup>As amended pursuant to ordinance # 2018-1
- <sup>24</sup> As amended pursuant to ordinance #2018-29
- <sup>25</sup>As amended July 2016 pursuant to ordinance #2016-072716-3
- <sup>26</sup> As amended pursuant to ordinance #2017-1
- <sup>27</sup> As amended pursuant to ordinance #2018-33
- <sup>28</sup>Section 1.12.2. was amended 9-25-2013 pursuant to Ordinance # 13-092513-2
- <sup>29-30</sup>As amended August 2013 pursuant to ordinance #082813-B