

## **CHAPTER 4:**

### **SUPPLEMENTARY AND QUALIFYING REGULATIONS**

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#### **4.1. EFFECT OF CHAPTER**

The regulations hereinafter set forth in this Chapter qualify or supplement, as the case may be, the zone regulations appearing elsewhere in this ordinance.

#### **4.2. LOT STANDARDS**

Except as otherwise provided in this ordinance, every lot, existing or intended to be created, shall have such area, width and depth as is required by this ordinance for the district in which such lot is located and shall have frontage upon a dedicated or publicly approved street or upon a private street or right-of-way approved by the Virgin Town Planning and Zoning Commission, before a building permit may be issued.

#### **4.3. EVERY DWELLING TO BE ON A LOT: EXCEPTIONS**

Every dwelling structure shall be located and maintained on a separate lot having no less than the minimum area, width, depth and frontage required by this ordinance for the district in which the dwelling structure is located. Group dwellings, cluster dwellings, condominiums, and other multi-structure dwelling complexes under single ownership and management which are permitted by this ordinance and have approval from the Planning and Zoning Commission may occupy one (1) lot for each multi-structure complex.

#### **4.4. YARD SPACE FOR ONE (1) BUILDING ONLY**

No required yard or other open space around an existing building or which is hereafter provided around any building for the purposes of complying with the provisions of this ordinance shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected or established.

#### **4.5. SALE OR LEASE OF REQUIRED SPACE**

No space needed to meet the width, setback, yard, area, coverage, parking or other requirements of this ordinance for lot or building may be sold or leased away from such lot or building.<sup>1</sup>

#### **4.6. SALE OF LOTS BELOW MINIMUM SPACE REQUIREMENTS**

No parcel of land which has less than the minimum width and area requirements for the district in which it is located may be cut off from a larger parcel of land for the purpose, whether immediate or future, of building or development as a lot.

#### **4.7. YARDS TO BE UNOBSTRUCTED: EXCEPTIONS**

Every part of a required setback shall be open to the sky, unobstructed, except for accessory buildings, as allowed elsewhere in this ordinance, the ordinary projection of skylights, sills, belt courses, cornices, chimneys, flues and other ornamental features which project not more than two and one-half feet (2½'), and open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers projecting not more than five feet (5').<sup>2</sup>

#### **4.8. CARPORTS<sup>3</sup>**

Structures, such as carports, which are meant for protecting vehicles from the sun, are allowed within required setbacks for the purpose of off-street parking, with The understanding that the structure may need

to be removed in the future at the owners expense to accommodate future infrastructure, as long as they comply with the following requirements;

**4.8.1 GENERAL REGULATIONS**

- 4.8.1.A. Does not obstruct the view as defined in 4.14 and,
- 4.8.1.B. Does not create an unmitigated hardship to neighboring properties and,
- 4.8.1.C. Does not connect the structures to any utilities with the exception of lighting and,
- 4.8.1.D. If required, a building permit with site plan.

**4.8.2 DEED REQUIRMENT**

Requires a written agreement of liability to be notarized and recorded in the County Assessor’s Office with the property deed.

**4.9. AREA OF ACCESSORY BUILDINGS**

No accessory building nor group of accessory buildings in any residential district shall cover more than twenty-five percent (25%) of the rear, side, or front yard.<sup>4</sup>

**4.10. ADDITIONAL HEIGHT ALLOWED**

Public and quasi-public utility buildings, when authorized in a district, may be erected to a height greater than the district height limit by Conditional Use Permit.

**4.11. EXCEPTIONS TO HEIGHT LIMITATIONS**

Penthouse or roof structures housing elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, steeples, flagpoles, chimneys, smokestacks, water tanks, windmills, wireless or television masts, private communications towers, theater lofts, silos or similar structures incidental to the building may be erected above the height limits herein prescribed, but no space above the height limit shall be allowed for purposes of providing additional floor space.

**4.12. SCENIC VISTAS TO BE UNOBSTRUCTED**

All height exceptions (subject to Conditional Use Permit) shall in no way inhibit or obstruct a scenic vista of surrounding neighbors. All Conditional Use Permit applications made to the Virgin Town Planning and Zoning Commission shall include the notification and of potentially affected neighbors within 500 feet. Such exceptions shall not hold for dwellings. See VULU Chapter 4.10.

**4.13. MINIMUM HEIGHT OF MAIN BUILDINGS**

No dwelling shall be erected to a height less than one (1) story above grade.

**4.14. MAXIMUM HEIGHT OF ACCESSORY BUILDINGS**

No building which is accessory to a one-family, two-family, three-family or four-family dwelling shall be erected to a height greater than one (1) story or twenty feet (20’).

<sup>1,2 and 4</sup> As amended pursuant to Ordinance #2017-1

<sup>3</sup>As amended pursuant to Ordinance #2018-11

#### **4.15. CLEAR VIEW OF INTERSECTING STREETS**

In all districts which require a front yard, no obstruction to view in excess of two feet (2') in height shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points forty feet (40') from the intersection of the street lines, except a reasonable number of trees pruned high enough to permit unobstructed vision to automobile drivers.<sup>5</sup>

#### **4.16. FENCES, WALLS, & HEDGES**<sup>6,7</sup>

##### **4.16.1. GENERAL REGULATIONS**

###### **4.16.1.A. LOCATION AND MAINTENANCE**

**4.16.1.A.1.** All fences must be located on the property of the owner constructing them.

**4.16.1.A.2.** The owner of a fence or visual screen, consisting of materials requiring painting, staining, or other significant periodic maintenance, shall be responsible for all maintenance of the fence.

**4.16.1.A.3.** Hedges or living fences shall be maintained so as not to encroach upon neighboring properties, sidewalks, right-of-ways, or hinder the vision of a vehicle driver.

###### **4.16.1.B. CLEAR VIEW**

Clear View of Streets. Fences, walls, and hedges must conform to the provisions of Section 4.14 of this chapter.

###### **4.16.1.C. APPROVAL**

Building approval from Zoning Administrator and or Planning and Zoning is required for all fences, walls, entryway or driveway entrance structures over six (6) feet in height. Masonry fences over six (6) feet in height require engineering.

###### **4.16.1.D. FENCE HEIGHT**

Fence height is the vertical distance as measured from the ground level at the lowest grade level within four (4) feet of either side of such fence to the upper-most portion of the fence.

###### **4.16.1.E. MATERIALS**

Permitted fencing materials include wood, masonry, metal, vinyl, and chain-link. Fencing shall be of materials originally intended for residential neighborhood fencing and shall not include materials intended for other purposes.

###### **4.16.1.E.1. LIVESTOCK FENCING**

When associated with the containment of animals, livestock fencing is permitted in Residential, Rural Residential, and Agricultural Zones that have legal nonconforming use of animals. Fencing may include barbed and low voltage electrical wire (with appropriate warning notice).

<sup>5</sup>As amended by ordinance # 2017-032217-1

<sup>6</sup>Section 4.15 replaced entirely on 01/27/2016 by ordinance # 2015-092315-2

<sup>7</sup>As amended by ordinance # 2017-032217-1

#### **4.16.1.E.2. POOLS AND SPAS**

Fencing and/or walls six feet (6') in height, including protective gates, shall be required around swimming pools, and similar structures that do not have a safety cover that complies with International Residential Code ASTM F134691 (2010).

**4.16.1.E.2.A.** Spas, swim spas, hot tubs and swimming pools that have a safety cover which complies with the ASTM F-1346 of the International Residential Code, (ASTM F1346-91(2010) Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs) are recommended to have as minimum, a four (4) foot wall, although not required.

#### **4.16.1.E.3. MASONRY WALLS**

Masonry walls and retaining walls shall meet the current minimum standards of the Uniform Building Code at the time they are constructed.

#### **4.16.1.E.4. TIERED RETAINING WALLS**

Single and tiered retaining walls exceeding (4) feet in height, measured from the lowest existing grade including the footing, shall require a building permit and depending on soils, slope and surcharge, may require professional engineering.

### **4.16.2. ZONING DISTRICT HEIGHT AND SETBACK REGULATIONS.**

#### **4.16.2.A. ZONING**

Regulations for fences, walls, and hedges contained in this section apply to the R, RR, and A zoning districts. For properties zoned C, RZ, HRZ, and RD, the height, location and design of fencing shall be determined during Conditional Use Permit application review, and regulated under an approved CUP.

#### **4.16.2.B. FRONT YARDS**

The following are allowed on the front property line or in the front setback:<sup>8</sup>

**4.16.2.B.1.** Fences, walls and hedges with a maximum height of four (4) feet;

**4.16.2.B.2.** Pedestrian gates and trellises used as entryway features, not exceeding eight (8) feet in height;

**4.16.2.B.3.** Ranch or farm style entrance, constructed of poles or posts not exceeding 18 feet (18') in height, or columns with a cross section no more than three feet by three feet (3'x3') which do not exceed nine feet (9') in height, and where any top horizontal pole is no less than fifteen (15') feet above driveway grade to allow emergency access.

**4.16.2.B.3.i.** Any gate within a ranch or farm style entrance shall not exceed four (4) feet in height unless the gate encloses livestock, in which case the gate shall not exceed six (6') feet in height. All structures permitted by this subsection must meet the requirements of section 4.14 of this chapter.

#### **4.16.2.C. SIDE AND REAR YARDS**

Walls, fences and hedges with a maximum height of six (6) feet are allowed in the side or rear yard.

**4.16.2.D. CORNER LOTS<sup>9</sup>**

Fences, walls, and hedges with a maximum height of six (6) feet are allowed in the front street side setback if:

**4.16.2.D.1.** A minimum setback of three (3) feet from the front property line is provided; and

**4.16.2.D.2.** The fence, wall or hedge meets the requirements of section 4.14 of this Chapter.

**4.16.2.E. LIVESTOCK AND AGRICULTURAL FENCES<sup>9</sup>**

Livestock and agricultural fences sufficient for livestock retention greater than six (6) feet in height are permitted within a front setback so long as they do not the clear view of intersecting streets and must conform to the provisions of Section 4-14 of this chapter.

**4.17. WATER AND SEWER REQUIREMENTS**

Where sewage treatment is not provided by a publicly owned wastewater treatment works or common sewage treatment and disposal unit all proposed building or proposed use shall be connected to a public water system within the town limits of Virgin. Where sewer treatment is not provided by a publicly owned wastewater treatment works or common sewage treatment and disposal unit, sewer hookups are required to individual septic systems in the Town of Virgin.

**4.18. CURBS, GUTTERS AND SIDEWALKS**

**4.18.1.** The installation of curb, gutter and sidewalks of a type approved by the Virgin Town Council may be required on any existing or proposed street adjoining a lot on which the main building is to be constructed or added onto, or on which a new use is to be established. Such curbs, gutters and sidewalks may be required as a condition of building or use permit approval.

**4.18.2.** Until amended standards are adopted and implemented by the Town, any new development including street or pedestrian improvements shall be reviewed by the Virgin Streets and Roads Committee and the Planning and Zoning Commission and recommendations made with specific consideration of new input gathered from the public and the pending changes to the standards; and:

**4.18.2.A.** required improvements shall meet or exceed the requirements of the International Fire Code, the Americans with Disability Act, the Virgin Uniform Land Use Ordinance, and all other pertinent laws;

**4.18.2.B.** Development plans shall meet Town goals of road, street and pedestrian-way connectivity;

**4.18.2.C.** Street improvement shall include shoulders and concrete edge protection;

**4.18.2.D.** all improvements to streets or pedestrian facilities shall meet or exceed the minimum recommendations of the Town Engineer; and

**4.18.2.E.** the terms of this section 4.17.2 shall remain in place only until the specific new standards for streets, roads, and pedestrian facilities are fully adopted and implemented.

**4.19. LOTS AND DWELLINGS ON PRIVATE STREETS: SPECIAL PROVISIONS**

Lots with frontage on private streets only shall be allowed subject to VULU Chapter 3.4. and all other applicable requirements of this ordinance. (VULU Chapter 3.4. requires determination by the Appeals Authority).

<sup>8-9</sup> As amended pursuant to Ordinance #2017-1

**4.20. PROPERTY MAINTENANCE**<sup>10</sup>

The Town of Virgin recognizes and values the beauty and diversity of its landscapes, structures, and individual styles, and shall not impose regulations under subjective definitions of "beautification". Instead, the Town asks that property owners be sensitive to the aesthetics of surrounding neighborhoods and differences in perception as they arrange and maintain their publicly visible areas, and be sensitive to the value of presenting an attractive image as a town. The Town shall require corrective action by responsible parties to control the impacts on Town image and neighboring properties of negligence in upkeep. When property neglect creates off-site impacts, responsible parties shall take action to:

- 4.20.1. Prevent the travel of noxious weeds to neighboring properties;
- 4.20.2. Prevent or mitigate the overgrowth of plant material that may create a fire hazard;
- 4.20.3. Discourage the proliferation of vermin;
- 4.20.4. Remove discarded junk and rubbish;
- 4.20.5. Prevent the deterioration of structures; and

<sup>10</sup> Section 4.19. was amended 9-25-2013 pursuant to Ordinance # 13-092513-2

**4.20.6.** Prevent or minimize offsite visibility of salvage, construction materials, machinery, equipment, and other items not generally accessory to uses in the underlying zone. No junk, rubbish, or other unsafe or unsanitary material or conditions, including cars or machinery in inoperable or unregistered condition for more than six (6) months, shall be permitted on any right-of-way or easement.

**4.21. OUTDOOR LIGHTING**<sup>11</sup>

**4.21.1. DEFINITIONS:**

For the purpose of this ordinance, terms used shall be as defined in VULU Ch. 1.6.

**4.21.1.A. REQUIREMENTS FOR SHIELDING AND FILTERING**

<b>FIXTURE LAMP TYPE</b>	<b>SHIELDED</b>	<b>FILTERED</b>
Low pressure sodium 4.20.1.A.i.	Partially	None
High pressure sodium	Fully	None
Metal halide 4.20.1.A.vi.	Fully	Yes
Fluorescent	Fully 4.20.1.A. ii.	Yes
Quartz	Fully	None
Incandescent, greater than 160W	Fully	None
Incandescent, 160W or less	None	None
Mercury vapor	Fully 4.20.1.A.vii.	Yes
Fossil fuel	None	None
Glass tubes, filled with Neon,	None	None
Argon, Krypton, Other sources	As approved by the Planning Commission	

**\* FOOTNOTES.**

**4.21.1.A.i.** This is the preferred light source to minimize undesirable light into the night sky affecting astronomical observations.

**4.21.1.A.ii.** Warm White and Natural Lamps (3500K) are preferred to minimize detrimental effects.

**4.21.1.A.iii.** For the purposes of this ordinance, Quartz lamps shall not be considered an incandescent light source.

**4.21.1.A.iv.** Most glass, acrylic, or translucent enclosures satisfy these filter requirements. (Quartz glass does not meet this requirement.)

**4.21.1.A.v.** This section is from the Springdale Zoning Ordinance.

**4.21.1.A.vi.** Metal halide display lighting shall not be used for security lighting after 11:00 p.m. (or after closing hours if before 11:00 p.m.) unless fully shielded. Metal halide lamps shall be in enclosed luminaries.

**4.21.1.A.vii.** Recommended for existing mercury vapor fixtures. The installation of new mercury fixtures is prohibited sixty (60) days after the effective date of this ordinance.

<sup>10</sup>Section added pursuant to Ordinance #2016-062216-6

## **4.21.2. REGULATIONS**

All public and private outdoor lighting installed in the Town of Virgin shall be in conformance with the requirements established by this ordinance. All previous language in the Virgin Town Bylaws and Ordinances regarding outdoor lighting is replaced with this ordinance. Except in the instance where the existing sign ordinance may be more restrictive it will take precedence.

### **4.21.2.1 CONTROL OF GLARE - LUMINARIES DESIGN FACTORS**

**4.21.2.1.A.** Any luminaries with a lamp or lamps rated at a total of more than 1800 lumens, and all flood or spot luminaries with a lamp or lamps rated at a total of more than 900 lumens, shall not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaries.

**4.21.2.1.B.** Any luminaries with a lamp or lamps rate at a total of more than 1800 lumens, and all flood or spot luminaries with a lamp or lamps rated at a total of more than 900 lumens, shall be mounted at a height equal to or less than the value  $3 + (D/3)$ , where D is the distance in feet to the nearest property boundary. The maximum height of the luminaries may not exceed twenty-five feet (25').

**4.21.2.1.C. Full Cutoff Luminaires:** (see luminaires definition 1.6) required.

Unless specifically exempted by the section, all outdoor lighting shall use full cutoff fixtures and shall be installed so light is directed downward with no light emitted above the horizontal plane, as defined by the bottom of the fixture. Lighting must not be placed at a location, angle, or height that directs illumination outside the property boundaries where the light fixtures are located.

**4.21.2.1.C.i. Qualifications:** To qualify as a “full cutoff” luminaire, a luminaire must conform to the performance specifications of classifications established by the Illuminating Engineering Society of North America (*IESNA*).

**4.21.2.1.C.ii. Characteristics:** Full cutoff luminaires must have the top and sides made of completely opaque material such that light only escapes through the bottom of the fixture.

Luminaires with translucent or transparent sides, or sides with perforations or slits, do not qualify as full cutoff. Any glass or diffuser on the bottom of the fixture must be flush with the fixture (no drop lenses). Merely placing a luminaire under an eave, canopy, patio cover, or other similar covers does not qualify as full cutoff.

#### **4.21.3. EXCEPTIONS TO CONTROL OF GLARE**

**4.21.3.1.** Any luminaries with a lamp or lamps rated at a total of 1800 lumens or less, and all flood or spot luminaries with a lamp or lamps rated at 900 lumens or less, may be used without restriction to light distribution or mounting height, except that if any spot or flood luminaries rated 900 lumens or less is aimed, directed toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaries shall be redirected or its light output controlled as necessary to eliminate such conditions.

**4.21.3.2.** Luminaries used for public roadway illumination may be installed at a maximum height of twenty-five feet (25') and may be positioned at that height up to the edge of any bordering property.

**4.21.3.3.** All temporary emergency lighting need by the Police or Fire Departments or other emergency services, as well as all vehicular luminaries, shall be exempt from the requirements of this section.

**4.21.3.4.** All hazard-warning luminaries required by Federal regulatory agencies are exempt from the requirements of this section.

**4.21.3.5.** Luminaries used primarily for sign illumination may be mounted at any height to a maximum of twenty-five feet (25'), regardless of lumen rating,

**4.21.3.6.** Law Governing Conflicts. Where any provision of Federal, State, County or Town statutes, codes, or laws conflicts with any provision of this code, the most restrictive shall govern unless otherwise regulated by law.

#### **4.21.4. OUTDOOR ADVERTISING SIGNS**

**4.21.4.1.** Top Mounted Fixtures Required. Lighting fixtures used to illuminate an outdoor advertising sign shall be mounted on the top of the sign structure. All such fixtures shall comply with the shielding requirements of Section 4.20.2.1. of this Chapter. Bottom-mounted outdoor advertising sign lighting shall not be used.

**4.21.4.2.** Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding Dark backgrounds with light lettering or symbols are preferred, to minimize detrimental effects. Unless conforming to the above dark background preference, total lamp wattage per property shall be less than forty-one (41) watts.

**4.21.4.3. Compliance Limit.** Existing outdoor advertising structures shall be brought into conformance with this code within ten (10) years from the date of adoption of this provision.

**4.21.4.4. Prohibitions.** Electrical illumination of outdoor advertising off-site signs between the hours of 11:00 p.m. and sunrise is prohibited.

#### **4.21.5. RECREATIONAL FACILITIES**

Any light source permitted by this code may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, tennis courts, or show areas, provided all of the following conditions are met:



**4.21.5.1.** All fixtures used for event lighting shall be fully shielded as defined in section 4.20.2.1. of this Chapter, or be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light, and glare.

**4.21.5.2.** All events shall be scheduled so as to complete all activity before or as near to 10:30 p.m. as practical, but under no circumstances shall any illumination of the playing field, court, or track be permitted after 11:00 p.m. except to conclude a scheduled event that was in progress before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m.

#### **4.21.6. PROHIBITIONS**

**4.21.6.1.** Laser Source light. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal is prohibited.

**4.21.6.2.** Searchlights. The operation of searchlights for advertising purposes is prohibited.

**4.21.6.3.** Outdoor advertising off-site signs are prohibited between the hours of 11:00 p.m. and sunrise.

#### **4.21.7. TEMPORARY OUTDOOR LIGHTING**

Any temporary outdoor lighting that conforms to the requirements of this ordinance shall be allowed. Nonconforming temporary outdoor lighting may be permitted by the applicant appearing before the Planning and Zoning Commission to consider: (i) the public and/or private benefits that will result from the use of the temporary lighting; and (ii) any annoyance or safety problems that may result from the use of the temporary lighting; and (iii) the duration of the temporary nonconforming lighting. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the Planning and Zoning Commission, who shall consider the request at a duly called meeting of the Planning and Zoning Commission. Prior notice of the meeting shall be given to the applicant and advertised in the usual manner as directed by the Virgin Town Bylaws. During the meeting, the members of the Planning and Zoning Commission will consider the application for recommendation to the Virgin Town Council for approval or denial. The Virgin Town Council shall render a decision within two weeks after their regularly scheduled and advertised meeting, at which the applicant is in attendance. Failure of the Town Council to act within this time will constitute denial of the request.

#### **4.21.8. EFFECTIVE DATE AND GRANDFATHERING OF NONCONFORMING LUMINARIES:**

**4.21.8.1.** This ordinance shall take effect immediately upon approval by the Virgin Town Council after a properly advertised public hearing.

**4.21.8.2.** All luminaries lawfully in place prior to the date of the ordinance shall be grandfathered. However, any luminaire that replaces a grandfathered luminaire, or any grandfathered luminaire that is moved, must meet the standards of this ordinance. Advertising signs are grandfathered only for a period of ten years, as specified in section 4.20.4.3. of this Chapter.

**4.21.8.3.** Grandfathered luminaries that direct light toward streets or parking lots that cause disability glare to motorists or cyclists should be either shielded or re-directed within ninety (90) days of notification, so that the luminaries do no cause a potential hazard to motorists or cyclists.

#### **4.21.9. NEW SUB-DIVISION CONSTRUCTION**

**4.21.9.1. SUBMISSION CONTENTS.** The applicant for any permit required by any provision of

the laws of this jurisdiction in connection with proposed work involving outdoor lighting fixtures shall submit (as part of the application for permit) evidence that the proposed work will comply with this code. The submission shall contain but shall not necessarily be limited to the following, all or part of which may be part or in addition to the information required elsewhere in the laws of this jurisdiction upon application for the required permit: (i) plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices; (ii) description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices and the description may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required); and (iii) photometric data, such as that furnished by manufacturers, or similar showing the angle of cut off or light emissions.

**4.21.9.2. ADDITIONAL SUBMISSIONS.** The above required plans, descriptions and data shall be sufficiently complete to enable the plans examiner to readily determine whether compliance with the requirements of this code will be secured. If such plans, descriptions and data cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant shall additionally submit as evidence of compliance to enable such determination such certified reports of tests as will do so provided that these tests shall have been performed and certified by a recognized testing laboratory.

**4.21.9.3. SUBDIVISION PLAT CERTIFICATION.** If any subdivision proposes to have installed street or other common or public area outdoor lighting, the final plat shall contain a statement certifying that the applicable provisions of the Virgin Town Outdoor Lighting Code will be adhered to.

**4.21.9.4. LAMP OR FIXTURE SUBSTITUTION.** Should any outdoor light fixture or the type of light source therein, be changed after the permit has been issued, a change request must be submitted to the Virgin Town Council for approval, together with adequate information to assure compliance with this code, which must be received prior to substitution.

#### **4.21.10. NOTIFICATION REQUIREMENTS**

**4.21.10.1.** The Virgin Town building Permit shall include a statement asking whether the planned project will include any outdoor lighting.

**4.21.10.2.** Within thirty (30) days of the enactment of this ordinance, the code, the Virgin Town Clerk will make copies of the ordinance available for use by any electrician or utility representative. These will be available at the Virgin Town Office during normal working hours.

#### **4.21.11. VIOLATIONS, LEGAL ACTIONS, AND PENALTIES**

**4.21.11.1 VIOLATIONS.** It shall be a civil infraction for any person to violate any of the provisions of this code. Each and every day during which the violation continues shall constitute a separate offense.

**4.21.11.2. VIOLATIONS AND LEGAL ACTIONS.** If, after investigation, the Building Administrator finds that any provision of the ordinance is being violated, he shall give notice by hand delivery or by certified mail, return-receipt requested, of such violation to the owner and/or to the occupant of such premises, demanding that violations be abated within thirty (30) days of the date of hand delivery or of the date of mailing of the notice. If the violation is not abated within the thirty (30) day period, the Virgin Town Council may institute actions and proceedings, either legal or equitable, to enjoin, restrain, or abate any violations of this ordinance and to collect the penalties for such violations.

**4.21.11.3. PENALTIES.** A violation of this ordinance, or any provision thereof, shall be punishable by a civil penalty of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00) for any individual, and not more than ten thousand dollars (\$10,000.00) for any corporation, association, or other legal entity, for each violation. The imposition of a fine under this code shall not be suspended. Each day of violation after the expiration of the thirty (30) day period provided in section 4.20.11.2. shall constitute a separate offense for the purpose of calculating the civil penalty.

**4.22. DISTANCE BETWEEN BUILDINGS**

The minimum distance between buildings shall be dictated by the International Fire Code, as adopted by Virgin Town, and the local and state fire authorities. These standards must be followed to allow access for fire equipment and personnel to effectively fight a fire.

**4.23. STORMWATER MANAGEMENT**

**4.23.1.** Roof down spouts shall drain to porous surfaces.

**4.23.2.** Peak discharges during the two (2) and ten (10) year storm events shall be no more than pre-developed conditions.

**4.23.3.** To the extent possible, concentrated storm water flows should be avoided.

**4.23.4.** The development shall capture 80 percent (80%) of the sediments/pollutants from the one (1) year storm event.

**4.23.5.** Landscape plantings shall be used to increase infiltration and decrease runoff.

**4.23.6.** Natural open drainage systems (i.e., washes and dry river beds) shall be preserved.

**4.24. SIGNS** See VULU Chapter 26, Sign Regulations.

**4.25. UTILITIES / INFRASTRUCTURE**

**4.25.1.** All utilities shall be brought in underground and to specifications determined by the Virgin Town Engineer and the Utility Company/Companies involved, and approved by the Virgin Town Council. The developer shall be required to extend all utility services and access roadways to the property and to provide for improvement and dedication of roadways as necessary. All ingress and egress roads shall connect with improved, paved, and dedicated roadways leading to property.

**4.25.2.** In extending improvements to isolated tracts of land, the Town of Virgin does not enter in any type of repayment agreement with the developer. The improvements, culinary water lines, pumping stations, water tanks, roads and sewer systems, etc., shall be installed at developer's expense. They shall be accepted into the Town's system one (1) year after installation and approval; they shall then be maintained by the Town from that point onward.

**4.26. BUSINESS LICENSE**

The granting of said Conditional Use Permit, when applicable, shall not relieve the permittee of any other licensing requirements of the Town or of any other public agency.

**4.27. LITTER**

**4.27.1.** A person may not throw, deposit, or discard, or permit to be dropped, thrown, deposited, or discarded on any park, recreation area, or other public or private land, or waterway, any glass bottle, glass, nails, tacks, wire, cans, barbed wire, boards, trash or garbage, paper or paper products, or any other substance which would or could mar or impair the scenic aspect or beauty of the land in the Town whether under private, state, county, municipal, or federal ownership without the permission of the owner or person having control or custody of the land.

**4.27.2.** A person who drops, throws, deposits, or discards, or permits to be dropped, thrown, deposited, or discarded, on any park, recreation area, or other public or private land or waterway any destructive, injurious, or unsightly material shall:

**4.27.2.1.** immediately remove the material or cause it to be removed; and

**4.27.2.2** deposit the material in a receptacle designed and provided to receive the material.

### **4.27.3. COMMERCIAL HANDBILLS AND LEAFLETS**

A person distributing commercial handbills, leaflets, bound or other advertising shall first obtain a permit from the Town Clerk. The Clerk may grant a permit to distribute commercial handbills upon receipt of a sample of the item; a statement of the manner in which it will be distributed and secured at properties; the start and end dates of distribution; verifiable names, addresses, and telephone numbers of both the applicant and the party for whom the applicant is performing the distribution; and payment in full of any permit fee set forth in the Virgin Town fee schedule. Failure to comply with this section shall result in revocation of the distribution permit.

**4.27.3.A.** Commercial handbills may only be distributed by one (1) of two (2) methods:

**4.27.3.A.i.** by securing the commercial handbill to a door handle or other permanent fixture within three feet (3') of the entry at the residence or business to which it is being delivered; or

**4.27.3.A.ii.** by personally handing the commercial handbill to a person at a residence.

**4.27.3.B.** No person shall throw or deposit any commercial materials in or on any premises which are:

**4.27.3.B.i.** Temporarily or continuously uninhabited or vacant; or

**4.27.3.B.ii.** posted with a sign near the entry bearing such messages as "No Trespassing", "No Peddlers", "No Advertisement", or similar notice.

**4.27.3.C.** Any person engaging in the distribution of commercial materials to residences in the Town shall, within three (3) days of distribution, return to each location to make certain that the item distributed earlier has been removed. Materials left unclaimed by the inhabitant must be removed within three (3) days of their distribution.

**4.27.3.D.** The provisions of this section shall not apply to:

**4.27.3.D.i.** Mail delivered by the United States;

**4.27.3.D.ii.** Newspapers;

**4.27.3.D.iii.** Community and other announcements of local interest containing no commercial advertising.

**4.27.4.** A person removing a wrecked or damaged vehicle from a park, recreation area, roadway, or other public or private land shall remove any glass or other injurious substance dropped from the vehicle in the park, recreation area, roadway, or other public or private land.

**4.27.5.** A person in charge of a construction or demolition site shall take reasonable steps to prevent the accumulation of litter at the construction or demolition site.

**4.27.6.** A law enforcement officer, the Virgin Town Zoning Administrator, or other agent of the Mayor or Town Council, within his or her jurisdiction: (a) is authorized to enforce the provisions of this section; (b) may issue citations to a person who violates any of the provisions of this section; and (c) may serve and execute all warrants, citations, and other processes issued by any court in enforcing this section.

**4.27.7.** An operator of a park, campground, trailer park, drive-in restaurant, gasoline service station, shopping center, grocery store parking lot, tavern parking lot, public and private beach and bathing area shall maintain sufficient litter receptacles on the premises to accommodate the litter that accumulates.

**4.27.8.** Violation of this section, or any provision thereof, shall be punishable by a penalty of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) for any individual, and not more than ten thousand dollars (\$10,000.00) for any corporation, association, or other legal entity, for each violation. The imposition of a fine under this code shall not be suspended. Each day of violation after the expiration of the notice period shall constitute a separate offense for the purpose of calculating the civil penalty.

#### **4.28. NON-CONFORMING LOTS OF RECORD**<sup>12</sup>

##### **4.28.1. Purpose.**<sup>13</sup>

The town recognizes that certain residential lots were legally created prior to the adoption of current zoning districts, with lot sizes smaller than this titles currently requires. The purpose of this subsection is to allow flexibility in required setback standards where the area or dimensions of a non-conforming LOT of record are most restrictive in order to accommodate construction of a single-family dwelling, consistent with existing patterns of development in the general area.

##### **4.28.2 Non-Conforming Lot of Record Defined.**

The term “Non-Conforming lot of Record” shall mean those lots which were legally created prior to the adoption of this Title or prior to the re-zoning of the parcel to a more restrictive zone requiring larger lots and/or larger required setbacks. Any lot created to provide private road access to an adjoining parcel shall not be considered buildable and shall not be granted the privileges outlined in this section. The burden of proof that a lot was created legally shall be borne by the landowner.

##### **4.28.3. Reduced Yard/Setback Requirements:**

A building permit may be issued for construction of a dwelling or remodel or expansion of an existing structure on a non-conforming lot of record with side or rear setbacks less than those required in the underlying zone, after review and approval of the Town Staff, provided that:

**4.28.3.A.** The lot is not subject to any variances, special exceptions, settlement agreements, development agreement, court orders or other similar entitlements or agreements that deal with lot size, setback, or lot coverage standards; and

**4.28.3.B.** The Planning and Zoning Commission applies the following percentage formula to determine the maximum allowable minimum side and/or rear setbacks, subject to the limitations in

Sections 4.27.3.C. and 4.27.3.D.

A non-conforming lot's/parcel's actual area (AA) shall be divided by the current required minimum area of the underlying zone (MZA) in order to formulate a ratio or proportional relation (X). The ratio shall then be multiplied by the current zone's side- and/or rear-YARD setback requirement (Y) in order to establish a reduced setback (Z). Formula:  $\frac{AA}{MZA} = X; X \times Y = Z$ .

Example: A non-conforming lot of record in the Rural Residential zone is 0.75 acres, or 32,670 square feet (AA). The current minimum area of the zone is 1.0 acres, or 43,560 square feet (MZA).  $\frac{32,670}{43,560} = 0.75$  (X).

Minimum side setbacks in Rural Residential Zone are twenty (20) feet. In this example, the Planning and Zoning Commission may grant a side yard setback of:  $0.75 \times 20 = 15$  feet (Z).

**4.28.3.C.** No side yard setback for a primary dwelling structure in the Rural Residential zone shall be reduced to less than ten (10) feet, and no side bard setback for a primary dwelling structure in the Residential zone shall be reduced to less than eight (8) feet; and

**4.28.3.D.** No rear yard setback for the primary dwelling structure in the Rural Residential Zone shall be reduced to less than twenty (20) feet and no rear yard setback for the primary dwelling structure in the Residential Zone shall be reduced to less than (8) feet; and

**4.28.3.E.** No rear yard setback for the primary dwelling structure shall be considered to create a non-conformance for an adjoining landowner whose livestock are contained in fields, corrals, or other enclosures located less than fifty (50) feet from the dwelling; and

**4.28.3.F.** The lot meets all other requirements for development, including but not limited to street frontage and an approved waste water treatment system.

**4.28.3.G.** Landowners of non-conforming lots of record that desire to seek setback reductions less than those grantable by the Planning and Zoning Commission may apply for a variance through the Appeal Authority.

**4.28.4. Front Yard Setbacks, Location of Accessory Structures, Building Height Standards, and Uses:**

Front and corner yard setbacks, the location and setbacks of accessory structures, building heights for residential accessory uses, and permitted and Conditional Uses of non-conforming lots of record shall meet the standards of the underlying zone.

<sup>12</sup>Section 4.28. added pursuant to ordinance #2016-052516-2

<sup>13</sup>As amended pursuant to Ordinance #2017-1