

# Building Ordinance for the Town of Vienna

## I. Purpose

The purpose of this Ordinance is to protect the health, safety and welfare of the residents of the Town of Vienna.

## II. Scope

The provisions of this Ordinance shall apply to new construction, placement, relocation, and replacement or reconstruction of any building, trailer, mobile home, manufactured home, or recreational vehicle.

## III. Definitions

As used in this Ordinance, the following words shall have the following meanings:

- a. **Addition, Enlargement or Expansion of a Building** means an increase of the building footprint or floor area and/or an increase in the height of the building or any part of the building beyond its present highest point. The term includes attached decks, garages, porches and greenhouses.
- b. **Building** means a permanent dwelling; any other building or structure used for shelter or support of persons, animals, goods, or property of any kind, including a building to be used for commercial, industrial or institutional purposes, and a so-called canopy shed, shed-in-a-box, or prefabricated structure of any type; and, any recreational vehicle or camper occupied for more than 30 days within any twelve (12) month period.
- c. **Dwelling** means any permanent building or shelter in which people live.
- d. **Lot** means a parcel of property comprising all of the contiguous land under common ownership on or after March 12, 2016.
- e. **New Construction** means a new building or an addition to an existing building.
- f. **Nonconforming Building** means a structure that complied with the ordinance and regulations at the time it was built but which, because of subsequent changes to the ordinance and regulations, no longer fully complies with those regulations.
- g. **Permanent** means any building that is in place or in use for a period greater than thirty days (30) days within any twelve (12) month period.
- h. **Private Road or Way** means a road or way privately owned and maintained over which the owner may restrict use or passage and includes a discontinued road or way even if a public recreation easement has been reserved.
- i. **Public Road or Way** means a road or way, owned and maintained by the State, the county or the Town, over which the general public has a right to pass.
- j. **Recreational Vehicle and Camper** mean any self-contained mobile vehicle or trailer capable of being used as a dwelling.
- k. **Substantial Change in Use** means the change in use of any residential, commercial, institutional or industrial building from one of these categories to another of these categories or to a mix of these categories.
- l. **Substantial Completion** means the point where normal functioning, use, or occupancy can occur, and the standards of this Ordinance have been met.
- m. **Substantial Start** means any work beyond the stage of excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a manufactured home or other building.

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### IV. Building Standards

- a. **Minimum Lot Size:** No building shall be constructed upon or moved to a lot with an area of less than one (1) acre outside the Shoreland Zone<sup>1</sup>. Existing lots of record at the time of the adoption of this Ordinance are exempt from the minimum lot size requirement.
- b. **Road Setback:** No building shall be erected, placed or relocated unless it is set back as follows:
  1. **Public Road or right-of-way:** Forty-five (45) feet from the road right-of way limits or sixty (60) feet from the centerline of existing traveled ways outside of the Shoreland Zone.<sup>2</sup>
  2. **Private Road or right-of-way:** Fifteen (15) feet from the road right-of-way limits or forty (40) feet from the centerline of existing traveled ways.
- c. **Property Line Setback:** No building shall be erected, placed or relocated less than fifteen (15) feet from any adjoining property line outside the Shoreland Zone<sup>3</sup>. The setback may be satisfied by including areas outside the property boundaries if secured by a deeded, recorded easement on the abutting property.
- d. **Off-Street Parking:** Residential off-street parking shall be provided in the amount of 400 square feet per dwelling unit. Commercial and industrial off-street parking shall be provided in the amount of 200 square feet per 1,000 square feet of gross floor area. This may be accomplished by driveway space, garage space, or parking lot space, or any combination of the three. This provision shall not apply to lots in existence prior to the enactment of this Ordinance. No credit will be given for off-street parking within a public or private right-of-way.
- e. **Recreational Vehicles and Campers:** The use of recreational vehicles and campers, so called, shall be permitted without a permit if occupancy is for less than thirty days (30) within a twelve (12) month period. In all cases there must be adequate provision for proper disposal of wastewater<sup>4</sup> and other wastes associated with the parked recreational vehicle or camper.
- f. **Lots of record:** Lots established before the adoption of this Ordinance must comply with the requirements of this Ordinance to the greatest extent possible.
- g. **Reconstruction or Replacement of Existing Nonconforming Buildings:** Existing nonconforming buildings damaged, destroyed or removed may be reconstructed or replaced in the same location if a permit is obtained within one (1) year of the date of the damage, destruction or removal. The existing footprint may be expanded no more than 30% so long as it is not made more nonconforming. After one (1) year from the damage, destruction or removal, reconstruction or replacement of any building must meet the setback and other standards of this Ordinance to the greatest extent possible.

### V. Administration

This Ordinance shall be administered and enforced by the Code Enforcement Officer (CEO) who shall be appointed annually by the municipal officers and certified under 30-A MRSA § 4451 .

- a. **Inspections:** The CEO shall inspect all buildings being constructed, placed, relocated, replaced or reconstructed for conformance with the provisions of this Ordinance
  1. At least two inspections shall be made by the CEO. The first inspection of the proposed building site shall, prior to construction, confirm conformance with the requirements set forth herein and the placement of structures as shown on the permit application. The applicant shall mark out the

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<sup>1</sup> Shoreland Zoning requires a minimum 2 acre lot.

<sup>2</sup> Shoreland Zone road setbacks are as required in the Town of Vienna Shoreland Zoning Ordinance.

<sup>3</sup> Shoreland Zone property line setbacks are as required in the Town of Vienna Shoreland Zoning Ordinance.

<sup>4</sup> Proper disposal of wastewater includes: 1) documentation that the unit is connected to an approved SSWD system, or; 2) documentation that any holding tanks are taken to and dumped at a licensed wastewater treatment facility.

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location of the structure(s) prior to the first inspection. The second inspection shall be made prior to the issuance of a certificate of compliance. The CEO may make additional inspections, as deemed necessary, to enforce the provisions of this Ordinance.

2. The CEO shall keep accurate records of all inspections, including dates, times and comments, upon or attached to the original application form. Those records over one year old shall be maintained in permanent storage at the Town Office.
- b. Right of Entry:** The CEO in the performance of duties may enter upon any property or any building at the convenience of the owner and the CEO. The issuance of a permit affirms the right of entry. Such entrances shall be for a reasonable length of time for the purpose of making any inspections required by this Ordinance.

### VI. Permit Required

Before beginning the construction, placement, relocation, replacement or reconstruction, if that replacement or reconstruction involves a change in use or size of any building, the applicant shall obtain a permit covering such proposed work. Evidence of wastewater and plumbing permits are required if applicable. An applicant for a building permit in the Shoreland Zone must obtain Planning Board approval under the provisions of the Vienna Shoreland Zoning Ordinance prior to the CEO issuing a building permit. Buildings smaller than forty (40) square feet do not require a permit but must meet the lot size and setback requirements of this Ordinance.

- a. Application:** An application for a building permit shall be submitted to the CEO in writing, using an application form available from the CEO or online at: [viennamaine.org](http://viennamaine.org), and shall include:
1. the name and address of the applicant;
  2. an address and map indicating the location including the map and lot # of the construction site;
  3. a site plan drawn to approximate scale showing the location of existing and proposed building(s), wastewater disposal facilities, water supply, off-street parking, lot dimensions, and road and property line setbacks;
  4. a statement of intended use of the proposed building(s);
  5. evidence that a subsurface wastewater disposal (SSWD) permit and inside plumbing permit, when required, has been issued; and
  6. specification of dimensions of the proposed building(s) (length, width and height).

The CEO may require such additional information as deemed necessary to determine the conformance with this Ordinance.

- b. Permit Approval:** The CEO, within fifteen (15) days shall examine the application for compliance with this Ordinance, issue the requested permit or transmit notice of denial. Notice of denial shall be in writing and shall state the reasons for the denial. The CEO shall forward pertinent data on new construction to the selectmen/assessors and planning board monthly.
- c. Life of Permit:** All building permits shall expire unless work is commenced within one (1) year and substantially completed within three (3) years from the date of issuance.
- d. Display of Permit:** Every building permit shall be kept on the premises, and be available upon request by the CEO.
- e. Revisions:** No changes or revisions of the original application shall be made in the process of constructing, placing, relocating, replacing or reconstructing a building without the approval of the CEO if the provisions of this Ordinance apply to said changes.

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### **VII. Fees**

The application fee for residential, commercial and industrial buildings or additions over one hundred (100) square feet shall be \$50.00. The application fee for additions and non-residential structures less than one hundred (100) square feet shall be \$25.00. The fee shall accompany the application and shall be used to defray the expenses of administering the Ordinance.

Applications for after the fact permits shall be charged a double permit fee. In order for a permit to be issued after the fact, permit applications must meet all the requirements of this ordinance.

### **VIII. Certificate of Compliance**

After a final inspection when the provisions of this Ordinance and any associated wastewater, plumbing, shoreland zoning or other required permits have been met, the CEO shall issue a Certificate of Compliance verifying work was performed in compliance with the provisions of this Ordinance.

### **IX. Compliance with Other Regulations**

Any construction, placement, relocation, replacement or reconstruction of a building shall comply with all applicable local and State plumbing, electrical, environmental protection, and other statutes, rules and regulations.

### **X. Amendments to Ordinance**

All amendments to this Ordinance shall apply to outstanding permits issued before the effective date of the amendment, unless the particular work governed by the amendment has been substantially started.

### **XI. Severability Clause**

This Ordinance shall be considered severable, and any section or part of any section found to be invalid shall not affect the validity of any other portion of this Ordinance.

### **XII. Violations**

Any building constructed or work performed in violation of the provisions of this Ordinance or any permit issued by the CEO, or any occupancy of any building without the required Certificate of Compliance is a violation. Any person found in violation of this Ordinance shall be subject to civil penalties in accordance with 30-A MRSA § 4452. Each day in which a violation exists constitutes a separate offense under this section.

### **XIII. Appeals**

Appeals from the CEO may be taken to the Board of Appeals (BOA) in accordance with 30 MRSA, Section 2151 (4)(c)(5). (Note: The State Statute requires that appeals be made within a certain time period and specifies the procedure that the BOA should use in hearing and deciding on appeals)

***NOTE:** Enforcement decisions made by the Code Enforcement Officer are not appealable to the Board of Appeals. An "enforcement decision" is any decision concerning land use activities undertaken either after a permit has been granted or denied or without a permit, and includes, but is not limited to, "stop work" orders, notices of violation, and the commencement of a civil action under Rule 80-K, Maine Rules of Civil Procedure.*

**a. Administrative Appeals:** The BOA shall hear and decide all cases where it is alleged there is an error issuing or denying a permit application.

**b. Variance Appeals:** The BOA shall hear and decide specific cases where, owing to conditions peculiar to the property, literal enforcement of this Ordinance would result in undue hardship. The words undue hardship as used in this subsection means all of the following:

1. that there are exceptional or unique circumstances relative to the property that do not pertain generally to other properties in the same neighborhood **and**
2. that property in the neighborhood will not be adversely affected **and**;
3. that such action will not be contrary to the objectives of this Ordinance **and**;

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4. that any hardship is not the result of action taken by the applicant or prior owner.
- XIV. Effective Date:** This Ordinance is effective as enacted by the Town on March 12, 2016.