

RESOURCE PROTECTION  
AND  
TIMBER HARVESTING ORDINANCE  
FOR THE  
TOWN OF VIENNA

[NOTE  
REVISIONS  
(LAST  
PAGE)]

Enacted: March 4, 1989

RESOURCE PROTECTION AND TIMBER HARVESTING ORDINANCE  
FOR THE TOWN OF VIENNA

SECTION #1 INTENT AND AUTHORITY:

This Ordinance is adopted pursuant to the authority granted under 30-A M.R.S.A. Section 3001 and Article VIII, Part 2, Section 1 of the Maine Constitution and the authority granted to municipalities by Titles 12 and 38 of the Maine Revised Statutes. The intent of this Ordinance is to insure that timber harvesting practices in Vienna will be conducted in a manner which will: protect against soil erosion, help prevent forest fires, prevent pollution and sedimentation of flowing and standing water, protect wildlife habitat, preserve the rural and historic character of the town, maintain and improve forest resources and ensure forest regeneration.

SECTION #2 APPLICABILITY:

This Ordinance applies to all standing timber and timber harvesting of 25 cords or more per lot per year within the town limits of Vienna, ME. Areas subject to the Town of Vienna Shoreland Zoning Ordinance may be subject to more stringent conditions than those imposed by this Ordinance.

SECTION #3 EFFECTIVE DATE:

This Ordinance shall be effective immediately upon its adoption at a regular or special town meeting.

SECTION #4 VALIDITY AND SEVERABILITY:

If any section of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

SECTION #5 DEFINITIONS:

As used in this Ordinance the following definitions shall apply:

a. BODY OF STANDING WATER: A body of surface water in excess of three acres that has no perceptible flow and is substantially permanent in nature. Such bodies of water are commonly referred to as lakes, ponds, bogs and wetlands.

b. CLEAR CUTTING: Harvesting that removes in any ten year period,

more than 40 percent of the volume on each acre involved, of trees 6 inches or more in diameter, measured at 4 1/2 feet above ground level.

c. CODE ENFORCEMENT OFFICER: An officer appointed by the Board of Selectmen to oversee and administer the provisions of this Ordinance.

d. CORD: 128 cubic feet of marketable wood including but not limited to: pulp wood, chips, saw logs, bolts, or firewood.

e. FLOWING WATER: A surface water within a stream channel that has a substantially continuous, perceptible flow. Such waters are commonly referred to as rivers, streams or brooks.

f. PUBLIC ROAD: A town way or public easement as defined in 23 M.R.S.A. Section 3021.

g. LOT: Any contiguous tract or parcel of land in common ownership, regardless of how it may have been previously owned or described.

h. SELECTIVE CUTTING: Harvesting that removes in any ten year period, not more than 40 percent of the volume on each acre involved, of trees 6 inches or more in diameter, measured at 4 1/2 feet above ground level.

i. SLASH OR DEBRIS: Any logging residue greater than one inch in diameter including but not limited to: limbs, tops, bark, cull logs, trees felled or uprooted as a result of wood harvesting.

j. STREAM CHANNEL: A channel between defined banks created by the action of surface water and characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of top soil, containing water-born deposits or exposed soil parent material or bedrock.

k. UNSCARIFIED: A land surface which remains unbroken.

l. TIMBER HARVESTING: The cutting and removal of trees from their growing site and the attendant operation of mobile or portable chipping mills or cutting and skidding machinery, including the creation and use of skid trails, skid roads and winter haul roads.

m. PERSON: Person shall include partnerships, firms and corporations.

## SECTION # 6 GENERAL PROVISIONS:

### PART A: CUTTING PRACTICES

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\* [PROBABLY NOT - SEE 1989 CHANGES]  
ON P.7

1. Timber harvesting of less than 25 cords per lot within any 12 month period requires no management plan or permit.
2. Timber harvesting of 25 to 100 cords per lot within any 12 month period requires at a minimum, an owner prepared management plan and a permit from the planning board.
3. Timber harvesting in excess of 100 cords per lot within any 12 month period requires a management plan and a permit from the planning board. This plan must be prepared by a forester who is certified by the Maine Forest Service for agricultural stabilization and conservation service (ASCS) determinations.

\* PART B: SLASH

1. All slash shall be disposed of in such a manner that no part thereof extends more than four feet (4') above the ground.
2. No slash or other debris shall remain on the ground within a distance of twenty-five feet (25') from the boundary line of another landowner, unless written permission has been granted by that landowner.
3. No slash or other debris shall remain on the ground within the right-of-way of any public road.

PART C: STANDING AND FLOWING WATER

1. Timber harvesting operations shall be conducted in such a manner as to prevent sedimentation of standing or flowing bodies of water during the harvesting process or within one year thereafter.
2. Timber harvesting operations within one hundred feet (100') of flowing water shall be by the selective cutting method only. No slash or debris shall be left on the ground within a distance of twenty-five (25') from the nearest bank of the water body or stream. No slash shall be left below the high water mark of standing or flowing water.
3. Logging roads, and skid trails shall not utilize stream channels. Logging road and skid trail approaches to stream channels shall be located and designed so as to divert water runoff from the trail or road in order to prevent such runoff from directly entering the stream.
4. All cut or fill banks and areas of exposed soil shall be revegetated or otherwise stabilized as soon as possible.
5. Bridges or culverts of adequate size and design shall be provided for all road crossings of watercourses.

6. Culverts should be placed so that water follows its original path and culvert ends must be protected from erosion.

PART D: EROSION CONTROL, ROADS and YARDS

1. Logging roads and skid trails shall be laid out and maintained in such a manner that minimal erosion hazard results.

2. All cut or fill banks and areas of exposed mineral soil outside the roadbed within 75 feet of a flowing, standing or tidal body of water shall be revegetated or otherwise stabilized so as to prevent erosion and sedimentation of water bodies.

3. Skid trails, log yards, and other sites where the operation of logging machinery results in the exposure of substantial areas of mineral soil, shall be located such that an unscarified filter strip is retained between the exposed mineral soil and the normal high water mark of any pond, river, body of standing water or flowing water. The width of this strip shall vary according to the average slope of the land as follows:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

4. The right-of-way of any town or state maintained roads shall not be used for timber landings and yards.

5. The wood transporter shall be responsible for damage caused by his vehicle and equipment to town or state maintained roads.

SECTION #7 ADMINISTRATIVE PROCEDURES:

PART A: MANAGEMENT PLAN CONTENT

The timber harvesting management plan shall include:

1. a map drawn to the scale of not greater than 1" = 600' and showing contour lines transposed from appropriate USGS 7 1/2 minute map, or other topographic survey;

(The map shall also show: flowing water, standing water,

rights of way and proposed roads and log yards, and soil types and boundaries as indicated by soil conservation service medium intensity soil maps or other soil evaluations by a Maine certified soil scientist.

2. amount of wood intended to be cut;
3. proposed erosion control measures with sites identified on the map and specific reference made to contour and soil types;
4. and a written description of the proposed regeneration land to be cut, referenced to the map.

## PART B: PERMITS

### 1. Permits Required

After the effective date of this Ordinance, no person shall engage in any timber harvesting requiring a permit without first obtaining one from the Planning Board.

If timber harvesting is underway at the time this Ordinance is passed, harvesting may continue in conformance with the Ordinance for up to fourteen days prior to submitting an application and management plan. Harvesting may then continue until such time as a permit is granted. If a permit is denied then harvesting operations must be suspended.

### 2. Permits Issued by Planning Board

The Planning Board shall approve or deny those permit applications on which it is empowered to act as stated in this Ordinance within 35 days of receipt of a management plan. Any denial of permits shall clearly state reason(s) for denial.

The permit is valid only for the lot designated and shall expire one year after date of issue if harvesting has not commenced and two years after date of issue regardless of harvesting performed.

## PART C: BONDING

The town may require that a bond be posted by the landowner sufficient to rectify any resulting damages to ensure that the intent of this Ordinance is upheld. The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the Road Commissioner, Municipal Officers and the Code Enforcement Officer.

## PART D: APPEALS

1. The Selectmen shall appoint a Board of Appeals in accordance with Maine law.

2. Any appeal must be in writing and must be filed with the town selectmen within 30 days after denial of permit.

3. The Board of Appeals may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Planning Board or Code Enforcement Officer in the administration and enforcement of this Ordinance. Such hearings shall be held in accordance with Maine laws. Following such hearings, the Board of Appeals may reverse the decision of the Planning Board or Code Enforcement Officer only upon a finding that the decision is contrary to specific provisions of this Ordinance.

4. An appeal may be taken within thirty days after any decision is rendered by the Board of Appeals, by any party to Superior Court in accordance with Maine law.

PART E: ENFORCEMENT

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer finds that any provision of this Ordinance is being violated, he/she shall notify, in writing, the person or persons responsible for such violation indicating the nature of the violation and ordering the action necessary to correct it within a specific period of time. Such written notice shall be sent by certified mail, return receipt requested, or hand delivered by the Constable of the Town of Vienna or the Code Enforcement Officer. A copy of such notices shall be maintained in the town office as a permanent record.

Any person who fails to comply with the orders of the Code Enforcement Officer within the prescribed time period shall be referred to the Municipal Officers for enforcement proceedings. Upon such notice from the Code Enforcement Officer, the Municipal Officers are authorized and directed to institute any and all action, whether legal or equitable, necessary to the enforcement of this Ordinance.

PART F: PENALTIES:

Any person who violates any provision of this ordinance shall be subject to the penalties imposed by 30 M.R.S.A. Section 4966, including but not limited to cost and reasonable attorneys fees for the prosecution of any violation of this Ordinance. Violators shall be subject to a penalty of up to one hundred dollars (\$100.00) for each violation. Each day such violation continues is a separate offense. All penalties and costs shall accrue to the Town.

The landowner shall be liable for any corrective action required to restore the land to meet the intent of this Ordinance.

7.

The following was approved at Town meeting August 3, 1989:

Sect 6.A.2.

Timber harvesting of 25 to 500 cords per lot within any 12 month period requires written notification to and a permit from the Planning Board.

Sect 6.A.3.

Timber harvesting in excess of 500 cords per lot within any 12 month period requires a management plan and a permit from the Planning Board. This plan must be prepared by a professional State of Maine registered forester.