

Town of Vienna
Mass Gathering Ordinance

1. TITLE

1.1. This ordinance shall be known and cited as the MASS GATHERING ORDINANCE of the Town of Vienna, Maine, and will be referred to as "this Ordinance".

2. AUTHORITY

2.1. This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part Second, Section 1 of the Maine Constitution and the provisions of Title 30-A, MRSA, Sections 3001 et seq.

3. PURPOSES

3.1. The Town of Vienna finds that unregulated Mass Gatherings present reasonable concerns for health and safety in the community. The purposes of this ordinance are:

- 3.1.1. To promote the health, safety, and general welfare of the residents of the community and attendees of the mass gathering;
- 3.1.2. To assure an adequate supply of potable water for the mass gathering;
- 3.1.3. To assure adequate sanitary facilities and solid waste disposal for the gathering;
- 3.1.4. To assure the availability sufficient trained security and law enforcement for the gathering;
- 3.1.5. To promote traffic safety and prevent obstruction and damage to public or private ways;
- 3.1.6. To prevent damage to public or private property;
- 3.1.7. To provide safety from fire and other elements;
- 3.1.8. To assure adequate emergency and medical coverage.

4. APPLICABILITY

4.1. The provisions of this ordinance shall govern all mass gatherings, as defined, within the boundaries of the Town of Vienna.

5. CONFLICTS WITH OTHER ORDINANCES

5.1. Whenever a provision of this Ordinance conflicts with or is inconsistent with another Ordinance, regulation or statute, the more restrictive provision shall control.

6. VALIDITY AND SEVERABILITY

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

7. EFFECTIVE DATE

7.1. 1. The effective date of this Ordinance shall be the date of the adoption by the legislative body on March 14, 1998.

8. AMENDMENTS

8.1. 1. This Ordinance may be amended by the majority vote of the Legislative body.

9. DEFINITIONS

9.1. Phrases used in this Ordinance shall be given their customary dictionary meaning and be viewed in such a way as to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "must" is mandatory and not discretionary.

9.1.1. **Administrative Authority** - Any of the following Town officials or Boards as designated to administer specific Sections of this Ordinance:

1. The Code Enforcement Officer
2. The Vienna Planning Board

3. The Municipal Officers (Board of Selectmen)
4. The Vienna Board of Appeals
5. The Licensed Local Plumbing Inspector

9.1.2. Mass Gathering Area - means any place maintained, operated, or used for a group gathering or assemblage, except an established permanent stadium, athletic field, arena, auditorium, coliseum, fair ground, or other similar permanent place of assembly that has sufficient existing sanitary facilities to handle the expected gathering.

9.1.3. Mass Gathering - means a group of one thousand (1000) or more persons assembled together, for any purpose, for seven (7) or more continuous or intermittent hours during any 72 hour time period. Gatherings held in an established and permitted permanent stadium, athletic field, arena, auditorium, coliseum, fair ground, or other similar permanent place of assembly that has sufficient existing facilities to handle the expected gathering are not considered Mass Gatherings.

9.1.4. Municipal Officers - means the Board of Selectmen of the Town of Vienna and its authorized representatives.

9.1.5. Nuisance - The following shall be defined as nuisances:

- (a) Any public nuisance known at common law or in equity jurisprudence; and,
- (b) An attractive nuisance known at common law or in equity jurisprudence; and
- (c) Any condition that violates federal, state, or local health or environmental laws or regulations.

9.1.6. Operator - means the person responsible for managing the mass gathering area. In the event that no operator exists, the owner or, in the event that the owner is unavailable, the lessee of the mass gathering area, shall be deemed to be the operator. In cases where there is more than one owner/lessee, the owners/lessees will be considered joint operators for the purposes of this ordinance.

9.1.7. Refuse - means all combustible or non-combustible putrescible or non-putrescible solid or liquid wastes.

9.1.8. Sanitary Facilities - means toilets, privies, lavatories, and urinals. Sanitary facilities also include: drinking fountains or potable water spigots; any buildings or rooms, portable or in fixed locations, provided for the installation and use of these units.

9.1.9. **Structure** - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

10. PERMITS REQUIRED

10.1. No person shall sponsor, promote, sell tickets to, permit on his property, or otherwise conduct, a mass gathering, as defined, until a permit therefore has been obtained from the municipal officers.

10.2. The municipal officers must issue a permit for a mass gathering unless it finds the standards set forth in this ordinance are not met. When considering the issuance of a permit the municipal officers must solicit comments from the Fire Chief, Code Enforcement Officer, Local Plumbing Inspector, Health Officer, and law enforcement agencies with jurisdiction. The municipal officers may also seek the advice and comment of the Maine Department of Human Services, Bureau of Health and any other officials or persons as it deems necessary.

11. APPLICATION

11.1. Procedure:

11.1.1. A complete application must be submitted to the municipal officers at least thirty (30) days prior to each mass gathering. Such application must be accompanied by a non-refundable permit fee of \$100.00. The applicant must also pay the reasonable costs of any professional review required.

11.1.2. The application must contain the information required in § 11.2 below.

11.1.3. The municipal officers must review the application and make a written finding that the application is:

a.) Complete

b.) Is incomplete. When an application is found incomplete the municipal officers must, within seven days, serve written notice to the applicant stating what is required to make the application complete.

11.1.4. Within twenty one (21) days of finding a complete application has been submitted the municipal officers must:

a.) Issue a permit to the operator. Reasonable conditions consistent with the requirements of this ordinance may be required.

b.) Deny a permit to the operator, which denial must be in writing and must set forth with specificity the reasons for such denial, together with a list of steps which, if followed by the operator, would result in a permit being issued.

11.1.5. Appeal. A party aggrieved by the decision of the municipal officers may appeal to the Superior Court under Rule 80B of the Maine Rules of Civil Procedure.

11.1.6. Bond & Insurance & Deposit:

11.1.6.1. Concurrently with the issuance of a permit, the operator must furnish the Town a bond of a surety company qualified to do business in this State in such an amount as the municipal officers shall reasonably determine, but in no case shall the amount be less than \$7,500. Cash or negotiable securities of equivalent value may be furnished in lieu of a bond. The bond or security must guarantee compliance by the operator with the provisions of this ordinance. The bond shall be written to ensure compliance with the requirements of this ordinance and to assure compensation of damage to property, whether public or private. The bond guarantees cleanup of the mass gathering area by the operator and compliance by the operator with any applicable state or local law or regulation. The bond is for the benefit of anyone who is injured or damaged as a result of the activity of the mass gathering. Anyone claiming against the bond may bring an action in the Kennebec County Superior Court within one year of the occurrence of the damage of which the complaint was made. In furnishing such a bond, the operator is deemed to have appointed the surety company as agent for the service of process upon the operator or, if cash or securities are supplied in lieu of a bond, the applicant must appoint, in writing, an agent for the service of process, irrevocably, for the term within which the action may be brought before any permit is issued.

11.1.6.2. The operator must furnish a certificate of liability insurance issued by an insurance company, currently licensed to do business in Maine, at a minimum of the following amounts: \$300,000.00 Bodily Injury (per person); \$500,000.00 Bodily Injury (per occurrence); and \$100,000 property damages. The insurance policy must provide at least 10 days notice to the Town prior to cancellation.

11.1.6.3. The operator must provide a cash deposit to the Town to cover the anticipated and reasonable costs of police, fire, medical, and/or other services provided by the Town. Such costs must be those costs incurred by the Town in connection with the contemplated mass gathering and which would not be incurred by the Town if the mass gathering was not held. These costs must be calculated based upon the anticipated attendance and estimates solicited from the service providers involved at their customary costs including, but not limited to, any overtime pay required. Within thirty (30) days after the conclusion of the mass gathering the Town must calculate its actual costs and any overpayment must be refunded to the operator. If the actual costs exceed the amount deposited, the operator, upon receipt of a itemized statement from the Town must pay the excess within ten (10) days.

11.2. Content of Application: The written application must contain the following information presented in the order in which they appear below.

11.2.1. The operator's full name, address and telephone number;

11.2.2. Proof of Standing: If the operator is not the owner he/she must furnish one of the following:

11.2.2.1. Written notarized authorization from the property owner acknowledging the owner's understanding of the scope of the proposed mass gathering; or,

11.2.2.2. An original notarized copy of a lease or contract for use of the property stating the intent to hold a mass gathering; or,

11.2.2.3. A current notarized copy of a purchase and sales agreement between the operator and the property owner stating the intent to hold a mass gathering.

11.2.3. A description of the proposed event including:

11.2.3.1. Dates and times for the mass gathering;

11.2.4. A statement of the maximum number of persons the operator will allow to attend the mass gathering and the plan the operator intends to use to limit attendance to that number. The operator must provide provisions for preventing the number of people in excess of the maximum permitted number from gaining access to the mass gathering area;

11.2.5. A statement from fire and police authorities having jurisdiction over the area of the proposed mass gathering acknowledging that adequate security, traffic control, and law enforcement, either public or private, is available for the event;

- 11.2.6. The specific details (include schedules for cleaning and maintenance and shifts for security personnel), including certified copies of contracts entered into, of provisions for:
 - 11.2.6.1. Food & drink;
 - 11.2.6.2. Sanitary facilities;
 - 11.2.6.3. Transportation and parking facilities;
 - 11.2.6.4. Security and protection of surrounding property;
 - 11.2.6.5. On-site medical staff and facilities;
 - 11.2.6.6. Janitorial services and post gathering waste removal;
 - 11.2.6.7. The bond or evidence of cash or negotiable securities (see § 11.1.6,1);
- 11.2.7. A plan of the proposed site of the mass gathering area that includes:
 - 11.2.7.1. The location of all proposed toilets, lavatories, and water supply sources (both potable and non-potable sources must be identified)
 - 11.2.7.2. The location of food service areas, first aid facilities, refuse disposal facilities and all security and traffic control personnel;
 - 11.2.7.3. The location and intensity of all illumination;
 - 11.2.7.4. The location and size of all entrances and exits to public highways or roads;
 - 11.2.7.5. The location and size of all ingress and egress roads in and around the mass gathering area;
 - 11.2.7.6. The location and size of all camping areas; and,
 - 11.2.7.7. The location and size of all parking areas;
- 11.2.8. A copy of the mass gathering area as shown on a USGS topographic map;
- 11.2.9. A list of of all equipment or items capable of generating a noise level greater than 50 dB A at the property line;
- 11.2.10. Certified copies of all other required state or local permits or licenses including, but not limited to, wastewater disposal, plumbing, mass gathering and alcoholic beverage control;

11.2.11. Examples of and the method(s) of proposed advertising of the event.

11.2.12. The above required submissions must conform to the performance standards in Section 12 of this ordinance.

12. PERFORMANCE STANDARDS

12.1. Mass gathering area:

12.1.1. Mass Gathering Area: Each mass gathering area must be well drained and arranged to provide sufficient space for persons assembled, vehicles, sanitary facilities and appurtenant equipment. Trees, underbrush, and other natural features must be left intact and undisturbed whenever possible, and that natural vegetative cover will be retained, protected and maintained so as to facilitate drainage, and prevent erosion. There must be a minimum of 20 square feet per person at the site for daytime assemblage and at least 40 square feet per person for overnight assemblage.

12.1.2. Water Supply:

12.1.2.1. Where water is distributed under pressure for drinking, washing, flushing toilets, and/or showers, the water supply system must deliver water at a minimum of 20 lbs/square inch at a rate of 30 gallons per hour.

12.1.2.2. Where water is not available under pressure, and non-water carriage toilets are used, at least 3 gallons of water per person per day must be provided for drinking and washing purposes.

12.1.2.3. Evidence of potability of the water source(s) must be presented.

12.1.3. Sanitary Facilities:

12.1.3.1. Toilets and/or portable toilets must be provided at a rate of one (1) for every 150 persons;

12.1.3.2. Sanitary facilities must be conveniently located and well defined;

12.1.3.3. Each toilet must be supplied with a continuous supply of toilet paper;

12.1.3.4. Service structures or rooms housing plumbing fixtures must be constructed of easily cleanable, nonabsorbent materials;

12.1.3.5. Each toilet room must be provided with a self closing door to provide privacy;

- 12.1.3.6. Portable toilets must be pumped and cleaned, on a regular schedule, before reaching capacity;
- 12.1.3.7. Wastewater must be discharged in a manner consistent with requirements of the Maine Department of Human Human Services, Division of Health Engineering;
- 12.1.3.8. That disposal and/or treatment of any excretion or liquid waste must be discharged in a manner consistent with requirements of the Maine Department of Human Human Services, Division of Health Engineering or The Maine Department of Environmental Protection;
- 12.1.3.1. Insects, rodents and other vermin must be controlled by proper sanitary practices, extermination, or other safe and effective control methods, and where necessary, animal parasites and other disease-transmitting nuisances must be controlled.

12.1.4. Refuse Disposal:

- 12.1.4.1. Refuse will be collected, stored, and transported in such a manner as to protect against odor, infestation of insects and/or rodents and any other nuisance condition, or conditions which are inconsistent with health, safety, and welfare of the patrons/attendees of the mass gathering or the public;
- 12.1.4.2. Refuse containers must be readily accessible and that one(1) fifty (50) gallon refuse container or its equivalent must be provided for each one hundred (100) persons anticipated to attend;
- 12.1.4.3. Motor vehicle parking areas must have at least one(1) fifty gallon refuse container for every twenty five (25) parking spaces.
- 12.1.4.4. All refuse must be collected from the mass gathering site at least once each twelve hour (12) period.
- 12.1.4.5. The mass gathering area and immediate surrounding property must be cleared of refuse within twenty four (24) hours following the mass gathering.

12.1.5. Roads and Parking:

- 12.1.5.1. Width of service roads must be at least twelve (12) feet for one traffic lane, 24 feet for two traffic lanes, and 7 feet for parallel parking lanes.
- 12.1.5.2. There must be at least one parking space for every four persons anticipated and the density must not exceed one hundred passenger cars or thirty buses per usable acre.
- 12.1.5.3. The proposed mass gathering area must provide for safe access to and from public and private roads Safe access must be assured by providing an adequate number and location of access points, with respect to sight-distances and intersections. All entrance and exit driveways must be designed according to the following

standards of safe sight-distance:

<u>Speed Limit</u>	<u>Sight Distances</u>	
	<u>Recommended</u>	<u>Minimum</u>
25 mph	250'	175'
30 mph	300'	210'
35 mph	350'	245'
40 mph	400'	280'
45 mph	450'	315'
50 mph	500'	350'
55 mph	550'	385'

12.1.6. Security:

12.1.6.1. Only certified law enforcement personnel or contract security companies licensed in accordance with Title 32 MRSA § 9401 et seq. must provide security services.

12.1.6.2. A minimum of one security person, exclusive of traffic control, must be available for each five hundred anticipated persons attending the mass gathering.

12.1.7. Medical Staff and Facilities:

12.1.7.1. A first aid building or tent, with adequate medical supplies must be available;

12.1.7.2. Emergency medical services must be provided by licensed staff (RN's, EMT's, PA's or other license deemed acceptable by the municipal officers) under the overall supervision of a licensed physician. The licensed physician need not be present but must have a reliable method of communication established;

12.1.7.3. Arrangements for adequate ambulance service by a designated provider must be established for the mass gathering with a provider currently licensed by the State of Maine;

12.1.7.4. Telephone and radio communications must be provided and kept available for emergency purposes;

12.1.7.5. The mass gathering operator must notify area hospitals of the mass gathering and the anticipated attendance;

12.1.7.6. The number of E.M.T. personnel and adequacy of ambulance availability must be determined by the director of the Rescue/First Responder organization currently serving the Town.

12.1.8. Sound

12.1.8.1. The noise levels at the perimeter of the mass gathering area must not exceed 70 dB-A during the hours from 9 a.m until 10 p.m.;

12.1.8.2. The noise levels at the perimeter of the mass gathering area must not exceed 30 dB-A during the hours from 10 p.m. until 9 a.m..

12.1.9. Alcoholic Beverages

12.1.9.1. The sale, consumption or possession of liquor must be governed by the provisions of Title 28-A M.R.S.A..

12.1.10. Illegality

12.1.10.1. The occurrence of, or failure to prevent any illegality may be grounds for rejecting or revoking the mass gathering permit.

13. ADMINISTRATION

13.1. This Ordinance shall be administered by the municipal officers with the advice and consent of the:

Code Enforcement Officer
Licensed Plumbing Inspector
Planning Board
Fire Chief
Health Officer
Law Enforcement Agencies with Jurisdiction

14. ENFORCEMENT

14.1. This ordinance may be enforced by the municipal officers or their designee, the code enforcement officer, and/or any cooperating law enforcement agency.

14.2. Violation of any section of this Ordinance shall be deemed to be a nuisance and shall be grounds for rejecting or revoking a permit.

14.3. Legal Action

14.3.1. When notification of a violation does not result in the prompt correction or abatement of the violation or nuisance condition, the Municipal Officers are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. Violation of any condition, restriction or limitation inserted in a permit by the municipal officers is cause for revocation of that permit by the municipal officers. The revocation process shall require reasonable notice of the violation to the

owner/operator of a hearing.

- 14.3.2. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements must not allow any illegality or violation of this Ordinance to continue unless there is clear and convincing evidence that the illegality was conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner or mass gathering operator acted in bad faith.

15. PENALTIES

- 15.1. Any person, including but not limited to the owner and/or operator who is found guilty of ordering or conducting any activity in violation of this Ordinance shall be penalized by a fine of not less than \$500 nor more than \$2500 to be recovered, on complaint, to the use of the Town of Vienna. Each days violation shall constitute a separate offense. In addition the Town may seek an injunction, when necessary, to prevent the applicant from promoting, publicizing or conducting the event if a permit has not been issued.
- 15.2. If the Town is the prevailing party in any action brought to enforce this Ordinance, the Town must be awarded it's reasonable costs, including attorneys fees, of bringing such action.