

**§ 220-8.2 VIEWSHED AND RIDGELINE PROTECTION LAW**

**A. INTENT AND PURPOSE:** The intent of the Viewshed and Ridgeline Protection Law is to promote new development that blends harmoniously with the natural terrain and vegetation in order to preserve and protect the scenic character and the environmental quality of the Canandaigua Lake viewshed.

- (1) Development within the Viewshed and Ridgeline Protection Areas shall be "Visually Subordinate". The intent of this standard is not to require the complete screening of all new development. The principle of visually subordinate recognizes that development might be visible if sought out by the viewer, but that the development is not a defining or highly memorable feature of the visible landscape. Visually subordinate development shall preserve unique visual resources and the natural harmony of the landscape patterns formed by uninterrupted forests, ridgelines and hillsides.
- (2) The purpose of the Viewshed and Ridgeline Protection Law is to:
  - (a) Protect important scenic views and vistas for the general welfare of the residents and businesses of the Town of Canandaigua, for visitors to the Town of Canandaigua, for those traveling on or otherwise enjoying Canandaigua Lake, and for those residents and businesses across Canandaigua Lake whose own scenic views and vistas include those portions of the Town of Canandaigua;
  - (b) Ensure that new development within defined Viewshed and Ridgeline Protection Areas does not reduce property values by unnecessarily detracting from the scenic qualities of the area;
  - (c) Ensure that tourism and commerce enjoy long-term viability by preserving, protecting, enhancing, and restoring the scenic qualities of the Canandaigua Lake viewshed; and
  - (d) Promote planting and maintenance of trees and shrubs across the viewshed, which stabilizes slopes, protects water quality and improves habitat value.

**B. VIEWSHED AND RIDGELINE PROTECTION AREAS**

- (1) The Town of Canandaigua shall publish a map of the Viewshed and Ridgeline Protection Areas ("Viewshed and Ridgeline Protection Areas Map").

- (2) New development on land that has been determined to be partially or wholly within the Viewshed or Ridgeline Protection Areas shall meet the requirements of this Section, 8.2, together with such other requirements imposed by the Town of Canandaigua Town Code. The Town of Canandaigua Planning Board shall make the final determination on whether a new development site is included in a Viewshed Protection and Ridgeline Protection Area based on the Viewshed and Ridgeline Protection Areas Map, the application, site analysis and site visit.
- (3) Applicants shall submit plans that document how the project layout and design minimizes visual impact from Common Public Viewing Areas to the maximum extent practicable for all site development and subdivisions in a Viewshed and Ridgeline Protection Area.

### C. VIEWSHED AND RIDGELINE PROTECTION AREA REVIEW PROCESS

- (1) Authority. The Planning Board shall have authority to require that all provisions of this §. 220-8.2 shall be complied with, but where it is deemed appropriately the Planning Board, any of the provisions contained in this § 220-8.2, may be waived by the Planning Board based upon findings as set forth in the Public Record.

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The Planning Board shall review the application and the site plan and make its determination thereon in accordance with the site plan review procedures set forth in Article VII of the Zoning Law and, in addition to the requirements established in this Section 220-8.2.

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- (2) Site plan review and approval by the Planning Board shall be required within the Viewshed and Ridgeline Protection Areas for the following activities and uses:

- (a) Construction of any structure greater than 1,000 square feet in footprint area, including residential and residential accessory structures;
- (b) Filling, excavation, grading or other alteration of the natural landscape in excess of 5,000 square feet, including the construction of private driveways
- (c) Clear-cutting or timber harvesting tree -topping.
- (d) Timber harvesting activities or selective removal of trees designed as pre-development site preparation, including road and driveway construction, clearing and/or grading for house-

sites and septic systems or related work, shall be reviewed by the planning board under these regulations.

(3) Requirements for site plan review and approval by the Planning Board within Viewshed and Ridgeline Protection Areas shall not apply to the following:

(a) Agricultural uses

(b) Repair and maintenance of existing structures

(c) Tree removal, thinning of vegetation, and grading associated with construction of unpaved hiking trails, not exceeding 4 feet in width.

(4) Viewshed and Ridgeline Protection Area Application: The Viewshed and Ridgeline Protection Area Review Process shall will follow the Town of Canandaigua Site Plan Regulations (Chapter 220 Article VII), in addition to the following criteria:

(a) The Preliminary Site Plan and Final Site Plan shall include the following:

(i) Grading Plan: Existing and proposed contours at a maximum of 2' intervals for the area surrounding the proposed development, such area to be of sufficient size to show the relationship of the development to the surrounding terrain.

(ii) Existing Vegetation and proposed tree Cutting Plan: Location of all trees within the Viewshed and Ridgeline Protection Area four (4) or more inches DBH and which, if any, of these trees are proposed to be cut as part of this project. Include a description of view creation plans and maintenance protocols.

(iii) Visibility Studies: Viewshed analysis, line-of-sight profiles, site photography and other means to assess the visual impact and relationship of the proposed development to Ridgeline Areas as viewed from locations within any Common Public Viewing Area.

(iv) Architectural Plans and Renderings: Building design drawings clearly depicting all, elevation plans, proposed structures to scale and their location on the site in relation to the physical and natural features of the parcel, including the proposed grade of the building area and finished floor elevations. Drawings should clearly display building elevation and architectural design; building materials, exterior colors and window fenestration.

- (v) Landscape/Revegetation Plan: Existing vegetation and proposed landscaping and clearing plans showing the proposed type, size and location of all vegetation to be preserved and/or installed. Special attention should be given to existing/proposed vegetation adjacent to buildings for visibility and screening purposes. A species list of existing and proposed landscape should be included. Such a plan shall address specific measures to be taken to ensure the protection and survival, and if necessary, replacement of designated trees during and after construction and/or installation of all site improvements.
- (vi) A narrative statement demonstrating that the improvements were designed to minimize visual impacts to the greatest extent possible.
- (vii) Projects with four or more units will need to dwellings or the disturbance of one acre or more shall complete the Town of Canandaigua Visual Impact Assessment Questionnaire

The Planning Board shall review the application and the site plan and make its determination thereon in accordance with the site plan review procedures set forth in Article VII of the Zoning Law and, in addition to the requirements established in this Section 220-8.2.

Waivers. The Planning Board is hereby empowered to waive, when reasonable, any requirements for the application, approval, approval with conditions, or disapproval of site plans. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety, and general welfare or unnecessary due to site conditions.

If an applicant wishes to request a waiver, said request shall be submitted in writing as part of the application. The application shall state fully the grounds of said request.

The Planning Board shall make findings supporting their decision regarding a waiver.

Waivers shall be made by resolution of the Planning Board. A statement showing the date that such waiver was granted shall be affixed to the final plat.

When granting waivers, the Planning Board may also impose additional conditions as needed to achieve the objectives of the waived requirement(s).

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**C.D. GENERAL REQUIREMENTS FOR VIEWSHED AND RIDGELINE PROTECTION AREAS.** Any development in a Viewshed and Ridgeline Protection Area shall conform to the following:

**(1) Building Site and Envelope**

- (a) Development atop ridgelines should be avoided. Where possible, buildings shall be sited downgrade a distance sufficient to ensure that the roofline does not break the visible horizon as seen from any Common Public View Area.

Building sites shall be selected to utilize (when available) natural topography and vegetation to minimize visual impacts from Common Public Viewing Areas.

- (b) The vegetative clearing, site grading or placement of buildings and structures shall not detract from the sense of order or harmony of the landscape patterns formed by the natural topography, forests, agricultural fields and open meadows.

- (c) If site development will result in a structure becoming visible above a horizon along a Ridgeline, documentation must be provided to demonstrate that alternatives have been duly considered and (a) are not practicable, (b) would result in greater visibility from Common Public Viewing Areas, or (c) would result in more significant impacts to vegetative cover, more significant alterations to existing topography, and/or more significant impacts to stormwater runoff and water quality.

**(2) Grading**

- (a) Any disturbance to or alteration of existing contours, slopes, and natural drainage areas shall be kept to a minimum.
- (b) As practicable, all grading or earth moving operations shall be planned and executed to assure that final grade is contoured to resemble the existing terrain, both on and adjacent to the site.
- (c) Site grading shall be conducted to minimize removal of existing vegetation and with emphasis on preserving mature trees.

**(3) Architectural Design**

- (a) If the roofline will become visible above the horizon along a Ridgeline as viewed from a Common Public View Area the maximum building

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~~height shall be 25 feet as measured from the average finished grade.  
If the site contains mature vegetation that can screen the roof line of  
the building, the maximum building height can be increased to the  
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This is for section C.3.e. "The applicant shall strive to use materials and colors that minimize the visual impact, including reflectivity, of any structure to the greatest extent possible."

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#### (4) Vegetative Clearing

- (a) Vegetative clearing atop ridgelines should be avoided. Tree removal should not alter the natural form of the upslope treeline where such forms the visible Ridgeline.
- (b) Existing vegetation shall be preserved to the greatest extent practicable to screen buildings and reduce the visual impact of development.
- (c) At no time shall the vegetation clearing restrictions set forth in this ordinance prohibit the removal of invasive species, diseased vegetation or of rotten or damaged trees or other vegetation that presents safety or health hazards.
- (d) This section is not intended to limit permitted timber harvesting when harvesting when practiced in accordance with environmentally sound and sustainable silvicultural principals. Timber harvesting should be conducted to maintain the appearance of an unbroken forested canopy as viewed from a Common Public Viewing Area.
- (e) Site Clearing for Construction – The Building Envelope
  - (i) Land disturbance and/or tree removal of any form of vegetation for the construction of the proposed principle

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building shall be limited to a distance of forty (40) feet beyond the proposed building foundation/footprint.

- (ii) Land disturbance and/or tree removal for accessory structures shall be limited to 20 feet beyond the foundation/footprint.
- (iii) Land disturbance and/or tree removal for driveways shall be limited to the minimum necessary for driveway construction and associated grading.
- (iv) Absorption area for onsite wastewater treatment systems should be located on previously cleared land where practicable. When necessary clearing for construction of septic fields shall be limited to the amount and location necessary for safe function and maintenance.
- (v) Clearing shall in no case create a total cleared area of  $\frac{1}{4}$  acre or more in size on any one lot/site, excluding driveways, on site wastewater treatment, ~~absorption areas and utility corridors~~.
- (vi) Additional clearing can be permitted if required for fire safety or to safely construct the proposed structure.

(f) Additional Site Clearing – View Creation on Treed Lots

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(i) Where practicable a moderate forest density shall remain in place sufficient to ensure that any new proposed structure shall be substantially screened and visually subordinate as viewed from Common Public Viewing Areas. Clearing and trimming practices must assure to minimize visibility of the the façade and roof area of any structure(s) as viewed from a Common Public Viewing Area.

(ii) Clearing for views should be limited, with narrow view openings between trees and beneath tree canopies being a desirable alternative to clearing large openings adjacent to building facades. Methods to achieve this standard include, but are not limited to:

- (A) Maintaining, planting or allowing to regenerate a well distributed stand of trees next to the proposed building site to interrupt the façade of buildings and to provide a forested backdrop to buildings;

(B) Selective cutting of small trees and the lower branches or large trees, rather than removing mature trees.

(i)(iii) Additional vegetative clearing and maintenance shall be no closer than the setback for accessory structures within the underlying zoning district with the exception of driveways and utility lines.

(ii)(iv) Areas of additional vegetative clearing and maintenance shall be clearly identified on the Site Plan.

(g) Sites Lacking Existing Vegetation Trees or Vegetative Buffer

(i) For development on any site lacking trees, a landscape planting and/or reforestation plan shall be proposed with the intention of interrupting building facades, providing additional trees as backdrop to buildings and/or soften the visual impact of new development from Common Public Viewing Areas.

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(ii) Landscape planting and/or reforestation plans shall included a well distributed mix of indigenous vegetation planted in natural appearing clusters and within good soil, that within 5 years, can reasonably be expected to render all new buildings visually subordinate as viewed from Common Public Viewing Areas within a reasonable amount of time.

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(iii)  
(5) Site Lighting. All lighting shall comply with Town Code and shall be visually subordinate.

(5) Utilities. All utilities shall be located underground whenever possible. Utility housings shall be safely screened by native plant species and located so as to minimize their visual impact to the greatest extent possible. For areas with rocky terrain or for cost prohibitive reasons, placing of utilities near the road edge and offsetting the alignment can assist to screen a cleared utility corridor.

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#### **~~E.A. VIEWSHED AND RIDGELINE PROTECTION AREA REVIEW PROCESS~~**

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~~(4)(1) The Planning Board shall review the application and the site plan and make its determination thereon in accordance with the site plan review procedures set forth in Article VII of the Zoning Law and, in addition to the requirements established in this Section 220-8.2.~~

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~~conditions, or disapproval of site plans. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety, and general welfare or unnecessary due to site conditions.~~

- ~~(a) If an applicant wishes to request a waiver, said request shall be submitted in writing as part of the application. The application shall state fully the grounds of said request.~~
- ~~(b)(a) The Planning Board shall make findings supporting their decision regarding a waiver.~~
- ~~(c)(a) Waivers shall be made by resolution of the Planning Board. A statement showing the date that such waiver was granted shall be affixed to the final plat.~~
- ~~(d)(a) When granting waivers, the Planning Board may also impose additional conditions as needed to achieve the objectives of the waived requirement(s).~~

#### F. REMOVAL OF TREES PRIOR TO SITE PLAN APPROVAL

- (1) Where an applicant removes trees in order to enhance views prior to site plan review and/or fails to submit a predevelopment site preparation plan to the planning board for review, the planning board may limit development to the non-impacted portion of the property, require the site to be restored or revegetated to the satisfaction of the Planning Board prior to development, and/or withhold building permits for construction of any structure property for a minimum of 5 years after the clear-cutting violation is discovered to have occurred in the area of the site plan application.
- (2) If a clear-cutting violation is discovered after a building permit is issued, the building permit will be suspended and/or the Certificate of Occupancy will be denied ~~for the construction project or revoked.~~

#### G. SEVERABILITY

G. SEVERABILITY. If any clause, sentence, paragraph, section or part of this local law or the application thereof to any person, firm or corporation, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this local law or in its application to the person, individual, firm or corporation or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

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~~(4)~~

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**H. DEFINITIONS.** The following definitions shall be added to the Town of Canandaigua Town Code Section 1-17.

- (a) Common Public Viewing Area – shall include any portion of the northern and eastern shoreline of Canandaigua Lake looking west from which the Town of Canandaigua is visible.
- (b) Ridgeline – a visually prominent natural crest of sloping land characterized by the lack of a topographical backdrop where the sky is visible beyond the ridge, as viewed from a Common Public Viewing Area and is east of State Route 21.
- ~~(c) Substantially Screened – A structure is be considered “substantially screened” if 75% of the building façade is blocked by intervening landform or screened by intervening vegetation (during leaf-off season) from any Common Public Viewing Area. Substantial screening recognizes that 75% screening (25% visible) cannot be precisely measured and must be determined using “good faith” estimation.~~
- ~~(d) Timber Harvesting – Removal of mature trees for the purpose of commercial sale of timber and other forest products.~~
- ~~(e)(c) Viewshed and Ridgeline Protection Area – any parcel that appears wholly entirely or partially within a Viewshed Area or a Ridgeline Area as both terms are defined herein as depicted on the Viewshed and Ridgeline Protection Areas Map.~~
- ~~(f)(d) Viewshed Area - Any area of land that can be viewed from a Common Public Viewing Area and is also east of State Route 21.~~
- ~~(g)(e) Visually Subordinate – The principle of visually subordinate recognizes that development might be visible if sought out by the viewer, but that the development is not a defining or highly memorable feature of the visible landscape. Visually subordinate development shall preserve unique visual resources and the natural harmony of the landscape patterns formed by uninterrupted forests, ridgelines and hillsides.~~

