

## 220-8.2 Viewshed and Ridgeline Protection Law- 9-28-17

**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.
- (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 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 application, site analysis and site visit.

- (3) The Planning Board shall require applicants to 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. GENERAL REQUIREMENTS FOR VIEWSHED AND RIDGELINE PROTECTION AREAS**

##### **(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.
- (b) Building sites shall be selected to utilize (when available) natural topography and vegetation to minimize visual impacts from Common Public Viewing Areas. Siting preference should be given to small hollows or otherwise protected areas to reduce visual impacts.
- (c) 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.
- (d) 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) No buildings shall have a footprint greater than 3,000 square feet, except those used for agricultural uses.
- (b) If the roofline will become visible above the horizon along a Ridgeline as viewed from a Common Public View Area the maximum building height shall be 25 feet as measured from the lowest foundation elevation. If the site contains mature vegetation that can screen the roof line of the building, the maximum building height can be increased to the maximum allowable building height for the underlying zoning district.
- (c) Buildings and roof angles shall be designed to conform to the contours of the site.




Large unbroken expanses of similar colored or similar textured walls or foundations should be avoided. The use of natural materials and plantings to shield foundations is recommended.

- (e) The applicant shall consider building colors that will minimize visual impacts to the greatest extent practicable. Specific measures to achieve this objective are:
  - [1] Colors shall be muted and “earth tone” representative of those found in the surrounding environment;
  - [2] No reflective finishes (e.g., unpainted or shiny metallic surfaces) shall be used on exterior surface including but not limited to the roofs, projections above roofs, retaining walls, doors, trim, fences, pipes or outside equipment; and
  - [3] Restrict siding types to painted or stained wood, timber, log, stone masonry, stucco, or non-reflective and unpainted vinyl.


(f) Windows

- [1] Large, uninterrupted expanses of glass and repetitive bands of windows should be avoided in favor of combinations of windows.
- [2] Windows facing any Common Public Viewing Area must be tinted, non-mirrored, low reflectivity glass.
- [3] Metal window panels should be painted.

(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 in ridgeline areas when practiced in accordance with environmentally sound and sustainable silvacultural principals. Timber harvesting should be conducted to maintain the appearance of an unbroken forested canopy as viewed from a Common Public Viewing Area.

(e) Clearing for Preliminary Site Planning and Surveying


- [1] Vegetation removal and thinning to facilitate preliminary site planning and surveying needs shall be kept to a minimum, and shall be restricted to; one unimproved access path no wider than eight (8) feet per lot; parcel boundaries for surveying needs; and selective patches for soil testing or other ground investigations. Said selective patches shall have a minimum separation distance of one hundred (100) feet.
- [2] At no time shall any vegetation four (4) or more inches DBH or greater and/or any vegetation forty (40) feet or more in height be removed from the site prior to approval by the Planning Board.
- [3] All land disturbance and/or tree removal undertaken within 12 months prior to application submission shall be depicted on the required Site Plan application materials.

(f) Site Clearing for Construction – The Building Envelope

- [1] Land disturbance and/or tree removal of any form of vegetation for the construction of the proposed principle building shall be limited to a distance of forty (40) feet beyond the proposed building foundation/footprint.
- [2] Land disturbance and/or tree removal for accessory structures shall be limited to 20 feet beyond the foundation/footprint.
- [3] Land disturbance and/or tree removal for driveways shall be limited to the minimum necessary for driveway construction and associated grading.

- [4] 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.
- [5] Clearing shall in no case create a total cleared area of ¼ acre or more in size on any one lot/site, excluding driveway and utility corridors.
- [6] Additional clearing shall be permitted if required for fire safety or if a New York State Licensed Engineer determines vegetative clearing allowances are insufficient to safely construct the proposed structure.

(g) Additional Site Clearing – View Creation

- [1] 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 no greater than 25% visibility of the façade and roof area of any built structure(s) as viewed from a Common Public Viewing Area. 
- [2] 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.
- [3] 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.
- [4] Areas of additional vegetative clearing and maintenance shall be clearly identified on the Site Plan.

(h) Sites Lacking Existing Vegetation

- [1] 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.
- [2] 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.

#### (5) Site Lighting

- (a) Lighting shall comply with Section 220-77 in all Ridgeline and Viewshed Protection Areas.

- [1] All exterior lights shall be equipped with will cutoff features and shall be shaded to prevent glare;
- [2] No floodlights/spotlights are permitted;
- [3] All exterior lighting fixtures must be hooded so that emanating light is angled at 45 degrees toward the ground. No light may escape from above the horizontal plane. Flood lights shall be hooded, have motion detectors and illuminate functional areas only, such as garage doors, storage areas, walks, and drives;
- [4] Lighting fixtures on buildings shall not be located above the eave line or above the top of any parapet wall. No fixtures shall be elevated more than 21 feet above the ground; and
- [5] No landscape lighting, continuously illuminated floodlights or unshielded fixtures shall be used.

#### (6) Utilities

- (a) 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.

### **D. BURDEN OF PROOF**

- (1) The applicant shall in all cases have the burden of proof of demonstrating that the proposed activity is fully consistent with the standards for approval set forth in Section 220-8.2.

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

1. 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 500 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
  - (b) Clear-cutting or timber harvesting.
  - (c) Timber harvesting activities 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.
2. 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.
3. Viewshed and Ridgeline Protection Area Application: The Viewshed and Ridgeline Protection Area Review Process 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:



Town of Canandaigua Visual Impact Assessment Questionnaire,

- [2] 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.

- [3] 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.
  - [4] 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.
  - [5] Architectural Plans and Renderings: Building design drawings clearly depicting all 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.
  - [6] 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.
  - [7] A narrative statement demonstrating that the improvements were designed to minimize visual impacts to the greatest extent possible.
  - [8] Projects with four or more units will need to complete the Town of Canandaigua Visual Impact Assessment Questionnaire
4. 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 Section 220 8.2.

#### **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.

#### **G. SEVERABILITY**

1. 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.

#### **H. Definitions**

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

**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.

**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.

**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.

**Timber Harvesting** – Removal of mature trees for the purpose of commercial sale of timber and other forest products.

**Viewshed Area** - Any area of land that can be viewed from a Common Public Viewing Area and is also east of State Route 21.

**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.