

220-8.2 Viewshed and Ridgeline Protection Law- 3-9-17

A. PURPOSE: The purpose of the Viewshed and Ridgeline Protection Law is to protect important scenic views and vistas for the general welfare of the residents and businesses of the Town of Canandaigua, of visitors to the Town of Canandaigua, of those traveling on or otherwise enjoying Canandaigua Lake, and of those residents and businesses across Canandaigua Lake whose own scenic views and vistas include those portions of the Town of Canandaigua. This law also promotes planting and maintaining trees and shrubs across the viewshed, which stabilizes slopes, protects water quality and improves habitat value.

B. Definitions

Clear-cutting – The cutting of more than **75%** of trees of 6 inch or more diameter at breast height over a one acre area of land.

Prominent Hill Top Areas: those areas of land identified on the Official Town Viewshed Map that **generally** have at least a 75 foot increase in elevation over a ½ mile horizontal distance from any Zone Two Common Public Viewing Area

Ridgeline -- a natural crest of sloping land that can be viewed against the sky from a Zone One Common Public Viewing Area

Viewshed Area: any area of land that can be viewed from a Zone One Common Public Viewing Area and Prominent Hill Top Areas that can be viewed from a Zone Two Common Public Viewing Area.

Zone One Common Public Viewing Area-- shall include **any portion of** the northern and eastern shoreline of Canandaigua Lake **for which the Town of Canandaigua is visible**.

Zone Two Common Public Viewing Area- shall include **the area looking east from Route 21**~~all public roads~~ within the Town of Canandaigua – May be updated based on NRI discussions

Viewing Corridor? – an area with selective vegetation pruning and removal which provides views from the parcel while reducing the visual impact of the development

C. VIEWSHED AND RIDGELINE PROTECTION AREAS

- (1) Viewshed Protection Areas shall include all areas that can be viewed from **both a Zone One Common Public Viewing Area or Prominent Hill Top Areas that can be viewed from a Zone Two Common Public Viewing Area**.
- (2) Ridgeline Protection Areas shall include all areas that contain a natural crest of sloping land that can be viewed against the sky from a Zone One Common Public Viewing Area.
- ~~(3)~~ **The Town of Canandaigua shall publish a map of the Viewshed Protection Areas and Ridgeline Protection Areas. If an applicant with mapped Viewshed or Ridgeline Protection Areas believes their project location does not fit the criteria for inclusion in these areas, the applicant may request that the Town of Canandaigua Planning Board utilize supplemental information to determine whether the project area is within a Ridgeline or Viewshed Protection Area during the site plan review process. The Town of Canandaigua Planning**

Board may utilize aerial imagery, topographic maps, individual site information, possible site visits and other pertinent information in the determination.

- (4) Development on land that has been determined to be partially or wholly within the Viewshed or Ridgeline Protection Area shall meet the requirements of this Town Code. The Town of Canandaigua Planning Board shall make the final determination on whether a development site is included in a Viewshed Protection Area or a Ridgeline Protection Area based on the application and site visit.

D. GENERAL REQUIREMENTS FOR VIEWSHED AND RIDGELINE PROTECTION AREAS

- (1) Any disturbance to or alteration of existing contours, slopes, and natural drainage areas shall be kept to a minimum.
- (2) The Planning Board shall require applicants to submit **flexible** lot subdivisions that preserve undeveloped land to the maximum extent possible for all subdivisions in a Viewshed or Ridgeline Protection Area.
- (3) Buildings and lots shall be laid out to reduce the visual impact of all development. The applicant must provide the Town of Canandaigua Development Office with documentation that visual impacts were minimized to the greatest extent possible as part of the site plan review process and shall demonstrate that each of the following criteria were complied with to the greatest extent possible:
 - (a) Buildings shall be designed to conform to the contours of the site.
 - (b) Buildings shall be setback from a ridgeline at a distance that allows the natural topography and vegetation to screen the structures. Whenever possible, structures should be placed in small hollows or otherwise protected areas to reduce visual impacts and should avoid exposed ridgelines ~~ridges~~.
 - (c) If any improvements are proposed for exposed ridgelines, documentation must be provided to show the alternatives 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.
 - (d) **The applicant shall consider building colors** that will minimize visual impacts to the greatest extent possible
- (4) Existing vegetation and trees shall be protected and maintained to the greatest extent possible to screen buildings and reduce the visual impact of development. To establish and maintain a viewing corridor **from the primary dwelling**, selective thinning (no more than 1/3 of the **tree crown**) or selective removal of trees may take place in an area **no more than 150 feet wide**.
- (5) After vegetation removal associated with construction has been completed, tree removal within the established viewing corridor **to maintain the view** shall be restricted to a 2% reduction in stem count (woody tree stems standing 4.5 feet or higher) or removal of no more than 5 trees that are **6 inch dbh** or greater in any 12 month period, whichever is more restrictive. Timber Harvesting on other portions of the property not associated with

maintaining the viewing corridor from the primary dwelling shall not be subject to these regulations.

- (6) For development on any site lacking trees, a landscape planting plan shall be proposed with the intention of screening the development. Native species should be used and arranged in natural appearing clusters. The Town of Canandaigua Planning Board will make design guidelines available, which outline methods to screen development.
- (7) Lighting shall comply with Section 220-77 in all Ridgeline and Viewshed Protection Areas.
- (8) 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.

E. ADDITIONAL REQUIREMENTS FOR RIDGELINE PROTECTION AREAS

- (1) Disturbance on ridgelines shall be no more than 150 feet wide along the ridgeline.
- (2) No buildings shall have a footprint greater than 3,000 square feet, except those used for agricultural uses.
- (3) Reasonable efforts shall be made by the applicant to have the roof line of the house below the ridgeline. The Planning Board shall consider and balance the impact to steep slope areas by moving the building below the ridgeline.
- (4) If the roofline extends above the ridgeline, 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.

F. 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.

G. 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, even if such activities and uses are allowed by right without site plan approval in Chapter 220: Zoning:
 - (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

- (c) Clear-cutting
- (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:
 - [1] Contours of existing and proposed conditions at vertical intervals of no more than two feet.
 - [2] Location of all trees within the **Ridgeline Protection Area** with a DBH of 6 inches or greater and which, if any, of these trees **are proposed to be cut** as part of this project.
 - [3] Planting plan or vegetation depicting buffer areas necessary for screening new development from and common public viewing areas
 - [4] **A narrative statement** that the improvements were designed to minimize visual impacts to the greatest extent possible.
 - [5] 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.

H. REMOVAL OF TREES PRIOR TO SITE PLAN APPROVAL- this needs legal review to get the language right. The goal is to stop someone from cutting down the trees they need to greatly enhance their view and then come in to apply for site plan approval. Somehow we need to remove the incentive for land owners to cut the trees (which won't need a permit) and then come in based on the land disturbance- for the site plan process.

- (1) An applicant that removes trees in order to enhance views prior to site plan review by the Planning Board shall have to incorporate how they are going to replace those trees that are lost.
- (2) No building permit shall be granted for construction of any structure on a 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, unless the landscape has been restored to the satisfaction of the Planning Board.
- (3) 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.

- I. **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.