

220-8.2 Viewshed and Ridgeline Protection Law- 8-8-17

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 development within defined viewshed and ridgeline 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. DEFINITIONS

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.

Ridgeline – a natural crest of sloping land that can be viewed against the sky from a Common Public Viewing Area and is also east of State Route 21.

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

C. VIEWSHED AND RIDGELINE PROTECTION AREAS

- (1) The Town of Canandaigua shall publish a map of the Viewshed and Ridgeline Protection Areas.
- (2) 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, site analysis and site visit.

D. GENERAL REQUIREMENTS FOR VIEWSHED AND RIDGELINE PROTECTION AREAS

- (1) Building Site and Envelope
 - (a) The Planning Board shall require applicants to submit site plans and/or lot subdivisions that preserve undeveloped land to the maximum extent practicable for all subdivisions in a Viewshed or Ridgeline Protection Area.
 - (b) The placement of buildings and structures shall not detract from the site's scenic qualities or obstruct significant views. 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.
- (2) Grading
 - (a) Any disturbance to or alteration of existing contours, slopes, and natural drainage areas shall be kept to a minimum.
 - (b) All grading or earth moving operations shall be planned and executed to assure that final contours are consistent with the existing terrain, both on and adjacent to the site.
- (3) Architectural Design
 - (a) 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 maximum extent practicable 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:

- [1] Buildings shall be designed to conform to the contours of the site.
- [2] 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.
- [3] The applicant shall consider building colors that will minimize visual impacts to the greatest extent possible. Specific measures to achieve this objective are:
 - a. Colors shall be muted and “earth tone” representative of those found in the surrounding environment;
 - b. 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;
 - c. Restrict siding types to painted or stained wood, timber, log, stone masonry, stucco, or non-reflective and unpainted vinyl;
- [4] Windows
 - a. Large, uninterrupted expanses of glass and repetitive bands of windows should be avoided in favor of combinations of windows.
 - b. Windows facing Canandaigua Lake must be tinted, non-mirrored, low reflectivity glass.
 - c. Metal window panels should be painted.

**End of NRI Team Revised Section.
Matt Allen Edits Continue Below.**

(4) Ridgeline Development

- (a) Development atop ridgelines should be avoided. Where possible buildings shall be sited downgrade a distance sufficient enough to ensure structures do not break the view or exceed the elevation of the upslope Ridgeline.
- (b) Vegetative clearing atop ridgelines should be avoided. Tree removal shall not alter the natural form of the upslope treeline where such forms the visible Ridgeline.
- (c) If site development will result in a structure becoming visible above 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.

(5) Vegetative Clearing

- (a) At no time shall the vegetation clearing restrictions set forth in this ordinance prohibit the removal of diseased vegetation or of rotten or damaged trees or other vegetation that presents safety or health hazards.

- (b) 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. 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. All clearing undertaken prior to application submission shall be depicted on the required Site Plan application materials.

- (c) Site Clearing for Construction – The Building Envelope

- [1] Clearing 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. Additional clearing shall be

permitted if required for fire safety or if a New York State Licensed Engineer determines vegetative clearing allowances are insufficient for safe constructing of the proposed structure.

- [2] Clearing for accessory structures shall be limited to 10 feet beyond the foundation/footprint.
- [3] Clearing for driveways shall be limited to a 15-foot maximum width.
- [4] Septic field 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.

(d) Additional Site Clearing

- [1] Existing vegetation and trees shall be protected and maintained to the greatest extent possible to screen buildings and reduce the visual impact of development.
- [2] While additional site clearing for personal preference and opening of views will be permitted, clearing shall take into consideration the need to reasonably minimize the visual impact of structures from Common Public Viewing Areas. Methods to achieve this standard include, but are not limited to:
 - a. Maintaining, planting or allowing to regenerate a 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. Consideration of thinning limbs of individual trees rather than removing whole trees when creating a view corridor; and
 - c. Selectively cutting small trees and the lower branches of large trees rather than removing mature trees.
- [3] Areas of additional vegetative clearing and maintenance shall be clearly identified on the Site Plan.
- [4] Additional vegetative clearing and maintenance shall be no closer than 30 feet from any property line with the exception of driveways and utility lines.
- [5] Vegetative clearing and maintenance for the purpose of opening views in the direction of Canandaigua Lake from the primary dwelling shall be limited to an identified View Corridor not to exceed 150 feet in width.

Selective thinning (no more than 1/3 of the tree crown) or selective removal of trees may take place within the identified View Corridor.

- [6] Tree removal within the identified View 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.
- [7] 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.
- [8] A moderate forest density shall remain in place sufficient to ensure that any new proposed structure shall be 75% screened and considered Visually Subordinate as viewed from Common Public Viewing Areas.
- [9] Trimming is conducted in a manner (a) sufficient only to allow a filtered view from the property toward any Common Public Viewing Area, (b) that will not result in a view of more than 25% of the proposed structure as viewed from Common Public Viewing Areas, and (c) assures continued health of each tree left standing.
- [10] Clearing shall in no case create a cleared area of ¼ acre or more in size on any one lot/site.

(e) Sites Lacking Existing Vegetation

- [1] For development on any site lacking trees, a landscape planting plan shall be proposed with the intention of screening the development. A mix of vegetation matching both in species and density, indigenous to the area and within good soil shall be planted in natural appearing clusters that, within 5 years, they can reasonably be expected to render all new buildings visually subordinate as viewed from Canandaigua Lake. The Town of Canandaigua Planning Board will make design guidelines available, which outline methods to screen development.

(6) 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 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. Continuously illuminated light bulbs over 75 watts or exposed bulbs shall be used.

(7) 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.
- (b) Utility towers (e.g., telecommunications facility, cell tower, satellite dish, windmill or antenna), storage areas, equipment sheds, swimming pools, and similar accessory structures shall not be visible from Canandaigua Lake.

E. ADDITIONAL REQUIREMENTS FOR RIDGELINE PROTECTION AREAS

- (1) Disturbance on ridgelines shall be no more than 150 feet wide along the ridgeline or no more than 50% of the parcel width along the ridgeline- whichever is more restrictive.
- (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.