

*TOWN OF DAY*  
**PROPOSED LOCAL LAW AMENDING TOWN LAND USE LAWS**  
*Draft of November 17, 2004*

Proposed additions are underlined.  
Proposed Deletions are in *[brackets and italics]*.

**Zoning Law**

The Town of Day Zoning Map is amended as follows:

- i Wherever the Lakefront Residential Zone exists, it extends from the shoreline of Great Sacandaga Lake to the first public road which is substantially parallel to that shoreline (North Shore Road, South Shore Road or Kathan Road), and an additional 528 feet inland from the inland side of that road.
- ii A new overlay district to be known as The Town of Day Critical Environmental Area, as shown on a separate sheet incorporated into the Zoning Map, is adopted.

A new Section 4.8 is added, as follows:

**Section 4.8 Town of Day Critical Environmental Area**

**4.8.1 Area Established.** A Town of Day Critical Environmental Area is established. The Town of Day Critical Environmental Area is the area designated on the Town of Day Critical Environmental Area Map, a copy of which is hereby incorporated into this Zoning Law. The Town of Day Critical Environmental Area is an overlay district; for areas included in the Town of Day Critical Environmental Area, the provisions of this Section 4.8 apply as well as the provisions applicable to the district in question (Sections 4.1 through 4.7) and the other provisions of this Zoning Law. Nothing in this Zoning Law is intended to modify or extend Class A Regional Project jurisdiction administered by the Adirondack Park Agency over subdivision or development projects in those critical environmental areas which are defined in Section 810(1) of the Adirondack Park Agency Act (Executive Law Article 27).

**4.8.2 Intent.** The Town Board of the Town of Day finds that many landscape features, geological features and other resources of the Town of Day and the Adirondack Park have special aesthetic, scenic or historical value. Many of these resources are located in this Town of Day Critical Environmental Area. Great Sacandaga Lake is a significant resource of the Town, and many of the resources located in the Town of Day Critical Environmental Area are visible from Great Sacandaga Lake, or from public roads. In order to protect and preserve those resources and to prevent or diminish the loss of those irreplaceable resources, the Town Board hereby declares it to be the public policy of the Town of Day to protect, perpetuate and enhance those resources. Accordingly, the purpose of this Section 4.8 is as follows:

1. To protect the Town of Day's scenic resources and aesthetic and historical heritage.

2. To stabilize and improve property values, and to stabilize and enhance the quality of life in the Town of Day, for residents and visitors to the Town.

3. To foster civic pride in the beauty of the Town of Day.

4. To protect and enhance the Town of Day's open space and scenic beauty.

5. To promote the scenic, aesthetic and historic resources of the Town of Day for the education, pleasure and welfare of the people of the Town.

6. To preserve the rural character of the Town of Day.

7. To implement the objectives and policies of the Town of Day Master Plan and the Adirondack Park Agency Law.

8. To reduce the adverse impacts of soil erosion.

#### **4.8.3 Site Plan Approval Required.**

1. No person shall undertake any of the following projects in the Town of Day Critical Environmental Area without first obtaining Site Plan Approval as set forth in Article 6 of this Zoning Law:

a. Any new land use, subdivision or development.

b. Any alteration to or improvement of existing development, if same requires a building permit.

c. Excavation of earth or filling in a way which will be visible from any point off the property on which filling or excavation is to occur.

2. The Planning Board may waive this requirement if it determines that the proposed development is minor, consistent with applicable law, and will not be visible from Great Sacandaga Lake.

**4.8.4 Additional Information Required.** In addition to the information required by Article 6 of this Zoning Law, the Planning Board may require any or all of the following items, as it determines appropriate for the nature and scale of the proposed project:

1. Plans showing the location, footprint, height, physical characteristics and architectural drawings of all existing and proposed structures, driveways, paths or trails on the development site, including building envelopes, and proposed exterior materials of any proposed structure, including the colors and reflectivity thereof.

2. A vegetation inventory extending at least 200 feet beyond any area proposed for clearing. That inventory shall be made prior to any cutting, shall depict all vegetation greater than four inches D.B.H., and shall include a vegetative cutting plan based upon said inventory, including a narrative describing the types of vegetation to be removed, the type of removal (i.e., cutting, stumping, trimming, thinning, etc.) and the methods of removal (i.e., hand harvest, mechanical, herbicide, etc.) Said plan shall describe the objectives of the vegetative removal (i.e., sunlight, recreational space, building, view, fire protection and safety). Said plan shall also include a description of the methods to be employed by the Applicant to ensure that the proposed vegetative removal will not result in undue adverse impacts to the scenic and aesthetic resources of the Town of Day and the Adirondack Park, and shall include all proposed mitigative measures.

3. A proposed vegetative cutting and vegetative planting plan, including the size and species of all vegetation proposed to be cut and planted, and the impact thereof on the view of the project from any place from which the project will be visible.

4. Plans showing proposed locations of wells, septic systems and utilities.

5. The following inventory and analysis methodology is to be employed to determine the extent of visibility of a structure from public use areas and to allow the Town to assess the impacts of such visibility. Public use areas include highways, roads, trails, vistas, public or semi-public buildings, lakes, rivers, campgrounds, parks, beaches, recreation areas, historic sites, natural and man-made attractions and other areas where public use is evident. The Town of Day Code Enforcement Officer or his representative should be present during the in-field analysis to verify the results of the field assessment. The Town of Day Code Enforcement Officer shall be contacted by the applicant to schedule the visual analysis field assessment.

A. Delineate the following viewsheds from the proposed development's location on a 7.5 minutes topographic map: Foreground (0 to 0.5 mile), middleground (0.5 to 3.5 miles) and background (3.5 to 5 miles).

B. Delineate line of sight profile transects every 15 degrees or less on the above map.

C. Prepare separate and scaled line of sight profiles for each transect. These profiles should be drawn on graph paper at a scale of 1 inch to 1,000 feet (horizontal) and 1 inch to 100 feet (vertical) depicting both existing topography, public use areas and the overall height of proposed structures.

D. Delineate by shading all areas on the map within a 5 mile radius of the proposed development where it could be visible based on topography alone using the line of sight profiles.

E. Assess the nature and extent of the development's actual visibility from each identified public use area. This step is to include identification of any screening of the

structure provided by intervening vegetation, structures, etc. It can best be determined by inventorying each public use area delineated (shaded) pursuant to subparagraph D and sighting back on a readily identified target located at the height of the proposed structure. A brightly colored balloon or collection of balloons may be the best target for this procedure. Other possible targets include a tarp, scaffolding or a crane.

F. Delineate by contrasting on the map all public use areas and portions of those areas from which the structure will be actually visible. Provide a description of the development's visibility in terms of what will be seen, distance from the development to the viewing point, the location, type and height of intervening vegetation and, for roads and navigable bodies of water, the duration of the view to the traveling public. Also, provide representative high quality photographs from each area keyed to the map and superimposing the approximate configuration of the development and denoting the location of the target. Provide separate representative line of sight profiles of actual visibility from each such area depicting the structure, existing topography and heights of intervening vegetation.

**4.8.5 Additional Site Plan Considerations.** In addition to the review required by Article 6 of this Zoning Law, the Planning Board's review of the preliminary site plan application shall include, but not be limited, to the following:

1. The visibility of the project from any place, particularly from Great Sacandaga Lake. In considering visibility, the Planning Board shall consider whether the proposed development or improvement will be visible, as well as whether such visibility will be effectively mitigated by the use of nonreflective building materials, including nonreflective glass, siding and roofing material. The Planning Board shall also consider the colors of the proposed development or improvement, and shall approve colors which mitigate any visual impact of the project or improvement. The Planning Board shall also consider whether the proposed development or improvement can be located in an area naturally screened from view, such as a hollow or far side of a hill. Satellite dishes, windmills, antennas, storage areas, equipment sheds, swimming pools and accessory structures shall be screened from view.

2. The degree of excavation proposed, and its impact upon the scenic, aesthetic and historical resources of the Town and the Adirondack Park, including the impact of cuts or fills.

3. The degree of paving or other new hard surface proposed, which shall be the minimum required to permit the proposed development or improvement.

4. Vegetative cutting and planting.  
a. The degree of vegetative cutting and the impact thereof upon the resources of the Town and the Adirondack Park, if such cutting will be visible from any point off the parcel on which it is occurring, particularly from Great Sacandaga Lake. In considering any application for vegetative cutting, the Planning Board shall approve only that disturbance to vegetation which is necessary for the development or improvement. In particular, hillside and hilltop sites should retain sufficient tree cover to screen structures from view. The Planning

Board shall consider the species of trees involved when approving vegetative screening or cutting.

b. Where, at the time of building, existing vegetation does not allow the screening of structures from Great Sacandaga Lake, a mix of vegetation, matching in both species and density the vegetation indigenous to the area shall be planted, with good soil added as necessary, such that within five years that vegetation can be expected to screen such new land use. All such vegetation planted shall be no less than four inches (D.B.H.) and no less than six feet in height at the time of planting where existing conditions warrant, otherwise the Planning board will review proposed alternate schemes to achieve the desired result.

5. Whether the development will preserve the scenic qualities and natural appearance of the Town of Day and the Adirondack Park, with particular concern for scenic slopes and ridge lines. To this end, development should occur off of hilltops, and behind vegetative screening. The development shall not be visible above the tree canopy as viewed from Great Sacandaga Lake.

6. Whether proper forestry practices will be employed, where applicable.

7. Whether erosion will result from the proposed development.

**4.8.6 Additional Requirements.** The following requirements shall apply throughout the Town of Day Critical Environmental Area:

1. Logging.

a. In order to pursue logging operations in the Critical Environment Area, the following information, as a minimum, must be supplied to the Code Enforcement Officer, in writing, before such operation may begin:

1. The name and address of the owner of the property to be logged.

2. The name and address of the logger.

3. The total land area involved in the logging operation.

4. The approximate basal area pre-harvest, and the projected residual basal area post-harvest.

5. The range, in inches, of the diameter at the standard breast height (4 \_ feet above ground) of the trees to be cut.

6. A plan for restoration of the property.

- \_\_\_\_\_ 7. A sketch map that shows:
- \_\_\_\_\_ A. The location and boundaries of the property.
- \_\_\_\_\_ B. New York State Department of Environmental Conservation classified streams and Adirondack Park Agency wetlands.
- \_\_\_\_\_ C. Approximate acreage of forest affected by the logging activities and the approximate acreage of wetlands and buffer zones.
- \_\_\_\_\_ D. Linear feet of streams affected by any stream crossings.
- \_\_\_\_\_ E. The names and addresses of adjacent property owners.
- \_\_\_\_\_ F. The access roads into the property and the proposed vehicle routes.
- \_\_\_\_\_ G. The area within the property where the logging operation will be conducted.
- \_\_\_\_\_ H. The locations of the product loading areas.
- \_\_\_\_\_ 8. Proof of liability insurance insuring, the logger and the landowner, and workers compensation insurance. if required by law.
- \_\_\_\_\_ 9. A report of a State Forester or Certified Forester setting forth the details of the proposed logging, and setting forth that the forester has marked, with paint or other distinctive means, the trees to be removed, at two points that are readily visible by the logger. One point shall be low enough on the tree so as to be visible on the stump after the tree is removed.
- \_\_\_\_\_ 10. A statement from the landowner that no trees will be removed other than as designated by the forester.
- \_\_\_\_\_ 11. Copies of any required permits from New York State Department of Environmental Conservation or other agencies.
- \_\_\_\_\_ 12. A written plan for disposal of debris.
- \_\_\_\_\_ 13. A copy of any required driveway permit, or a statement of the Town Highway Superintendent that no driveway permit is required.
- \_\_\_\_\_ 14. A performance bond or cash bond in favor of the Town in an amount not less than \$100,000.00, to secure compliance with this local law.
- \_\_\_\_\_ b. Loading areas, shall be located in the same area as the logging

operation, and any cleared area used for storing, sorting, processing or loading wood products shall be no larger than 2 acres in size, and shall be at least 50 feet from the edge of any public right of way or adjacent property.

c. Logging equipment is prohibited from operating within 50 feet of the edge of any public right of way, except to cut and remove occasional trees, provided a minimum of 10 square feet of tree basal area is maintained along any 100 foot length of the 50 foot wide setback.

d. Promptly after the completion of logging operations, loading areas, shall be smoothed to remove all ruts and debris.

e. Promptly after the completion of logging operations, waste materials shall be buried or removed to a point out of sight of any road, water view, or adjacent property.

f. The landowner and the logger shall be jointly and severally responsible for compliance with each and every aspect of this Section 4.8.6.1, notwithstanding any agreement to the contrary.

g. No logging shall result in a residual basal area of less than 65 square feet of trees per acre at any point in the Critical Environmental Area as measured with a 10 factor prism or angle gauge.

h. No removal of trees may occur in forested areas containing less than 65 square feet of basal area per acre.

j. The Code Enforcement Officer may order the suspension of logging operations if, in his or her opinion, conditions created by the spring thaw, weather, or any other cause would make soil erosion likely.

k. No skidding shall be permitted in any stream classified by DEC unless an Article 15 permit has been obtained.

l. Haul and skid trails shall be maintained and abandoned in a manner that will prevent erosion.

m. No deposits or debris shall be placed or permitted on any public road or other public property.

n. Upon request of the Code Enforcement Officer, a report prepared by a State Forester or Certified Forester shall be filed, stating that the terms of this Section 4.8.6.1 have been complied with.

o. Upon the showing of a hardship in compliance with the terms of this Section 4.8.6.1, the Planning Board may waive any of the requirements of said Section 4.8.6.1.

2. All fencing visible from any part of Great Sacandaga Lake shall be muted earth tones representative of those in the surrounding environment.

3. No tree trimming shall be permitted beyond what is sufficient to allow a filtered view of Great Sacandaga Lake.

4. A residual basal area of at least 65 square feet of trees per acre as measured with a 10 factor prism or angle gauge shall remain in place between any structure and Great Sacandaga Lake. In no case shall clearing render the ground surface visible from Great Sacandaga Lake.

5. In the event of loss of vegetation, that provides screening of structures, by any natural causes such as blow-downs, ice storms, disease, or other events, the property owner shall replant the area(s) within one year. Additionally, should any vegetation die or present a safety or health hazard and be removed such that structure(s) become more visible, said vegetation must be replaced within one year of removal. Any replacement vegetation that does not survive shall be replanted annually, until such time as healthy replacement vegetation is established.

6. Architectural design.

a. Roof lines and roof surfaces shall be specified in the building design and shall, insofar as possible, reflect the natural slope of the terrain.

b. No reflective surfaces shall be used on exterior surfaces, including roofs, projections above roofs, retaining walls, doors, trim fences, pipes or equipment.

c. Siding shall be stained or painted wood, timbers, logs, natural stone masonry, stucco, or unpainted nonreflective vinyl.

d. Colors shall be natural wood colors and shades of dark green, dark brown, gray or black (black for roof shingles).

e. Large unbroken expanses of similarly colored or similarly textured walls or foundations shall be avoided.

f. Large, uninterrupted expanses of glass and repetitive bands of windows should be avoided in favor of combinations of windows.

g. Windows shall be of tinted, non-mirrored, nonreflective glass.

h. Reflective metal window panels shall be painted.

i. Exterior lighting shall be limited to that which is sufficient to subtly illuminate functional areas.

\_\_\_\_\_ j. Total exterior lighting shall not exceed 80,000 lumens for any parcel.

\_\_\_\_\_ k. Lighting fixtures shall be hooded and angled 45 degrees toward the ground. No light shall escape from above the horizontal plane, and the light source shall not be visible.

\_\_\_\_\_ l. Flood lights shall be hooded, have motion detectors, and illuminate functional areas only, such as garage doors, storage areas, walks and drives.

\_\_\_\_\_ m. Lighting fixtures on buildings shall not be located above the eave line or the top of the parapet wall, nor in any case higher than 21 feet above the lowest grade elevation, natural or as built.

\_\_\_\_\_ n. No bulbs rated greater than 75 watts shall be used in continuously lit areas, and bulbs shall be of warm colors.

\_\_\_\_\_ o. Utilities shall be constructed and routed underground.

#### 7. Erosion Control.

\_\_\_\_\_ a. Runoff from any slope exposed for more than one day shall be controlled through the use of mulch, silt fencing, check damming, temporary sediment basins, or other generally accepted engineering methods.

\_\_\_\_\_ b. Topsoil shall be removed from areas to be excavated, shall be stored, and shall be replaced and spread to provide a suitable base for seeding and planting.

\_\_\_\_\_ c. All fill materials shall be of a composition suitable for the ultimate use of the fill, shall be free of rubbish, and shall be carefully restricted in its content of brush, stumps, tree debris, rocks, frozen material and soft or easily compressible material. Fill material shall be sufficiently compacted to prevent erosion.

**4.8.7 Post Construction Requirements.** Within six months after issuance of a Certificate of Occupancy, the Applicant shall submit color photographs of the development as built, from the same points indicated in Section 4.8.4.5, and from any other point on Great Sacandaga Lake from which the completed development is more visible.

Section 8.12 is amended as follows:

#### **Section 8.12 Temporary Occupancy of Travel Trailers**

**[A. T] A** travel trailer[s and] or recreational vehicle[s] less than 400 square feet in size may be temporarily occupied on any lot in any zoning district for a period not to exceed one hundred and eighty (180) days in any calendar year. Such travel trailers and recreational

vehicles must meet the setback regulations for the zoning district in which they are located and must comply with all sanitary code requirements. Such travel trailers and recreational vehicles must also comply with the applicable provisions of the New York State Uniform Fire Prevention and Building Code.

A new Section 8.13 is added as follows:

### **Section 8.13 Blasting**

Whenever any blasting or explosion is planned, the owner of the parcel of land on which said blasting or explosion is to occur shall give notice by placing a sign on the premises where said blasting or explosion is to occur, such sign to be at least four feet by four feet in size, and readily visible and readable to passersby. Said sign shall be erected not less than 15 days prior to said blasting or explosion. Notice of said blasting or explosion shall also be provided to the enforcement officer, in writing, not less than 5 days prior to said blasting or explosion. Said sign and notice shall set forth the anticipated date, time and purpose of said explosion or blasting. If the date of the proposed blasting or explosion shall change, a new notice meeting the requirements of this Section shall be posted, and a notice of such additional notice shall be filed with the enforcement officer not less than 5 days prior to said blasting or explosion.

A new Section 8.14 is added as follows:

### **Section 8.14 Driveways**

No person shall install or alter a driveway or other entrance or exit to or from a public road without a Driveway Permit. An application for a Driveway Permit shall include the plans for such a driveway, including the elevation profile, plot plan and drainage plan for same. All new driveways and alterations to existing driveways shall conform to the following requirements:

1. Construction shall be in accordance with the “Typical Residential Driveway” and “Standard Driveway Ditch Crossing” drawings which are incorporated into this local law and are attached hereto.

2. The applicant shall furnish all materials and bear all costs of construction within the town highway right of way, and all work done and materials used shall meet the requirements of the Town of Day Highway Department.

3. The angle of the driveway with respect to the highway pavement edge shall be not less than 60 degrees and not more than 120 degrees.

4. No driveway shall be permitted within 50 feet of a highway intersection.

5. No driveway shall be permitted at any location where the lack of sight distance in either direction along the highway poses a hazard.

6. Finished grades of any new driveway shall not exceed 12 percent average grade over any 150 foot length, shall not exceed 15 percent at any point, and shall not exceed three percent within 50 feet of the intersection of the driveway with the public road.

7. Residential driveways shall be a maximum of 20 feet in width.

8. Commercial driveways shall be a maximum of 50 feet in width for a single combined entrance and exit, or a maximum of 50 feet each when two separate entrances are permitted. No more than two driveways shall be permitted to any commercial establishment. Applications for a commercial driveway shall include a fully dimensioned plan of the proposed driveway showing a drainage plan.

9. A stake flagging the proposed driveway location shall be placed at the proposed driveway entrance to identify the location for inspection.

New definitions are added, as follows:

**LOGGING** - The cutting of trees 6" or more in diameter at breast height at a rate of more than 12 trees per acre. This shall not include the cutting of dead trees or trees creating a dangerous condition, or the cutting of trees necessary for development as approved by a Building Permit or Site Plan Approval.

**CERTIFIED FORESTER** – is an individual who meets the Society of American Forestry's forester certification requirements.

**BASAL AREA** – of a tree is the cross-sectional area ( in square feet) of the trunk at breast height ( 4-1/2 feet above the ground).

The definition of Travel Trailer or Travel Vehicle is amended as follows:

**TRAVEL TRAILER OR TRAVEL VEHICLE** - Any portable vehicle, including a tent camper or motor home, less than ~~300~~ 400 square feet in size, which is designed to be transported on its own wheels, which is designed and intended to be used for temporary living quarters for travel, recreational or vacation purposes, and which may or may not include one or all of the accommodations and facilities customarily included in a mobile home. A travel trailer is not a single family dwelling.

### **Subdivision Law**

A new Section V.A.1.d is added, as follows:

**d. Location of test pit for leach field.**

A new Section V.B.1.c is added, as follows:

- c. Location of test pit for leach field.

### **Sewage Disposal Law**

Section 5.020.A.2.f. is amended as follows:

- f. A percolation test and a test pit to a depth of five feet below the proposed leach field elevation are [is] required for the site of a proposed leaching facility. The percolation rate shall be determined by the methods described in the Appendices. *[The percolation test and test pit location and soil type shall be shown on the plot plan and preliminary and final subdivision plan of any subdivision or site plan application.]*

The enforcement officer shall verify the results of such tests and require supporting information from the applicant necessary for such review.

The first paragraph of Appendix B is amended as follows (the remainder of Appendix B is unchanged):

#### **APPENDIX B HIGH GROUNDWATER DETERMINATION AND SOIL PERCOLATION TEST**

Subsurface conditions *[may]* shall be determined by digging a hole 5 feet deeper than the anticipated depth of the proposed leaching facility. Soil color and redoximorphologic features (i.e., soil mottling) will be examined to determine the depth of the seasonal high ground water table, particular where drier soil conditions exist. The enforcement officer shall be notified when the test pit has been dug and is available for inspection.