

30929

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MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

(14[5]) CRITICAL ROOT ZONE means the circular area of ground surrounding a tree extending a distance of one foot per diameter [ealiper] inch of the tree, measured from the tree trunk or stem.

(15) DEVELOPMENT IMPACT AREA means the area of land or vegetation alteration within a property including, but not limited to, clearing, grading, excavating, filling, and any construction site operations, paving, or any other installation.

(16) DIAMETER means the thickness of a tree trunk.

(17) DRIP LINE means a vertical line that runs from the outermost point of the crown of a tree to the ground.

(18[6]) ENHANCED PAVEMENT means any permeable or nonpermeable decorative pavement material intended for pedestrian or vehicular use approved by the director. Examples of enhanced pavement include, but are not limited to, brick or stone pavers, grass paver, exposed aggregate concrete, and stamped and stained concrete.

(19[7]) EVERGREEN TREE OR SHRUB means a tree or shrub of a species that normally retains its leaves throughout the year.

(20) FACADE PLANTING AREA means the portion of a lot abutting a storefront, office, or mixed use building facade.

(21[8]) FLOOD PLAIN means any land area susceptible to inundation by the hundred-year frequency flood.

(22) FOREST STAND DELINEATION (“FSD”) means a comprehensive assessment of the conditions of a property using multiple types of information, including, but not limited to, a tree survey, aerial imagery collected from private or public sources, natural resources assessments, topographic maps, management plans, a map of conservation areas, land use maps, etc., to provide the required data to determine tree replacement requirements and forest conservation objectives.

(23[9]) GRADING means any digging, scooping, removing, depositing or stockpiling, of earth materials.

(24) GREEN INFRASTRUCTURE means the ecological framework of trees and vegetation used in conjunction with engineered systems for the effective and resilient processes of stormwater management, climate adaptation, urban heat abatement, biodiversity, improved air quality, clean water, and healthy soils, for sustainable social, health, and economic benefits of the urban community.

(25[40]) GROUND COVER means natural mulch, or plants of species that normally reach a height of less than three feet upon maturity, installed in such a manner so as to form a continuous cover over the ground.

Sec. 51 (p. 3): Blanket ban, sub-1-meter size cap, or prior approval requirement on satellite dishes or antennas is preempted by federal FCC OTARD regulations.

Statutory / Legal Reference: 47 C.F.R. § 1.4000 (FCC OTARD Rule)

Statutory Comparison: The FCC Over-the-Air Reception Devices rule (47 C.F.R. § 1.4000, as expanded by the 2021 OTARD Report and Order, FCC 21-10) preempts community association restrictions that prohibit, charge application fees for, require prior architectural approval for, or impose sub-1-meter (39.37-inch) diameter caps on the installation, maintenance, or use of television broadcast antennas, direct-broadcast satellite dishes 1 meter or less in diameter, and fixed wireless broadband antennas (including hub and relay antennas) situated on property within the exclusive use or control of the owner/tenant.

CURRENT WORDING IN DOCUMENT:

limited to, a tree survey, aerial imagery collected from private or public sources, natural resources assessments, topographic maps, management plans, a map of conservation areas, land use maps, etc., to provide the required data to determine tree replacement requirements and forest conservation objectives.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

maturity, or as classified by the director. LEGACY TREE means a large or medium tree planted in a landscape area in accordance with Section 51A-10.104 and Section 51A-10.135.) (32[4-71]) LOT means:
(A) a "lot" as defined in Section 51A-2.102; and
(B) an "artificial lot" as defined in this section. DCA145-002(PE) (Article X) (Alternate 30929 (38[4-g])) LOT WITH RESIDENTIAL ADJACENCY means any of the following:
(A) A building site containing a multifamily use that is adjacent to or directly across:
(i) a street 64 feet or less in width; or
(ii) an alley; from private property in a single family, duplex, townhouse, [e+1 CH, or RTN district ora residential planned development district.
(B) A building site containing a nonresidential use that is adjacent to or directly across:
(i) a street 64 feet or less in width; or
(ii) an alley; from private property in an agricultural, single family, duplex, townhouse, CH, multifamily, [ef] manufactured housing, or RTN district, or a residential planned development district...

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