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LEGISLATIVE UPDATE

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There are not a lot of legislative updates, as the legislature has not been in session since the beginning of summer. However, as we previously noted we expect things to “heat up” in the post-election lame duck session. Therefore, you will likely see some alerts and calls to action from us, and your assistance is appreciated!

While the legislature has been quiet, the state agencies have not. One particular item that should be brought to your attention is new fire code regulations that will ban the use of combustible mulch within 18 inches of combustible structures. In August, the Department of Community Affairs (DCA) proposed fire code revisions that, among other things, included prohibitions on mulch. While the regulations have not yet been adopted, the comment period has closed and, based on discussions with people at the DCA and local fire officials, we predict that the mulch regulations will be included as part of the final rule making.

New section 305.6 of the fire code will prohibit the use of combustible landscape materials, such as wood-based mulch, within 18 inches of any building, structure, deck, porch, balcony, or smoking area. Excepted from the 18-inch prohibition are non-combustible building materials, such as concrete, so long as the non-combustible portion of the structure is at least 3 feet above grade.

In addition, live plant materials are also prohibited within 18 inches of a combustible structure or beneath a combustible overhang that has less than 6 feet of clearance.

Fire resistant mulch, such as sand or stone, can still be used.

New section 305.7 of the fire code provides that the mulch restrictions become effective 12 months after the adoption of the regulations, and also requires that all pre-existing combustible materials be removed within the 12-month phase in period.

Accordingly, while we cannot guarantee that the regulations will be adopted, nor can we say with certainty when

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they will be adopted, associations should take the likelihood of these regulations coming into effect within the next year or so into account when adopting their landscaping budgets and plans.

While these regulations will not be popular with homeowners, fire officials I have spoken to have expressed full throated support for them due to an increasing prevalence of mulch fires. In addition, fire officials have noted that mulch fires carry particular dangers due to the fact that they can burn underneath the top layer of mulch and spread undetected, posing an enhanced life-safety threat. ■