



Armbruster Goldsmith & Delvac LLP

Dale Goldsmith | Mark Armbruster | William F. Delvac | Amy E. Freilich | David A. Goldberg
Damon P. Mamalakis | Dave Rand | Todd Nelson | Daniel Mandel | Spencer Eldred
Aaron Clark | Matt Dzurec | Alix Wisner

STATE WILDFIRE LEGISLATION COULD IMPACT DEVELOPMENT IN HIGH-FIRE-HAZARD AREAS

A proposed State law to address wildfire risks could significantly impact development in very high fire hazard areas across California.

The bill, [Senate Bill \(SB\) 12](#), is part of a range of bills the Legislature is continuing to consider in response to California's increasingly destructive wildland fires. SB 12 imposes fire hazard planning responsibilities on local governments. Most importantly, it would require cities and counties to determine that projects are protected from wildfire risk and comply with fire safety standards before approvals could be granted to permit development in the "very high fire hazard severity zone."

Where would SB 12 apply?

As shown in this [map](#) published by CalFire, the "very high fire hazard severity zone" includes major areas in Southern California and across the State. In Los Angeles County, SB 12 could impact development in areas ranging from Brentwood to Baldwin Hills, Encino to Echo Park, Hollywood to Highland Park, Malibu to Mt. Washington, and Pacific Palisades to Palos Verdes.

What standards would SB 12 impose?

The standards under SB 12 are based in part on the Building and Fire Codes, however, the bill also directs the State Fire Marshal to adopt additional standards. SB 12 would require cities and counties that include very high fire risk areas to amend their general plans to address wildfire risks, and amend their zoning ordinance to adopt a very high fire risk overlay zone. It also imposes wildfire risk reduction standards that would apply to "development of any size." The standards ratchet up for larger residential developments, and cover a variety of physical and operational characteristics, including wildland fire hazard assessment and hazard mitigation plans; fuel modification zones; community evacuation areas; site layout and building clustering; fire breaks; ingress and egress; common area and open space maintenance; and inspection and enforcement.

Once a city or county adopts the required new wildfire risk reduction standards, it could not approve new development in very high fire hazard areas unless it finds that the project is protected from wildfire risk in accordance with the applicable standards. This requirement would apply to [any discretionary approval](#) to construct a new building or increase occupancy in an existing building, or [any ministerial permit to construct a new residence](#). It applies to "all structures" within a project – not only habitable buildings. This means that additions to single family homes, garages, pool houses, or accessory dwelling units in very high fire risk areas could be impacted.

In addition, because SB 12 is a State health and safety regulation, it would not appear to be subject to the property owner's vested rights under a development agreement or vesting tract map.

What is the status of SB 12?

At this point, the bill has passed the Senate Governance and Finance and Housing Committees. It will next be heard in the Senate Appropriations Committee on May 17. Several chambers of commerce and business and builder groups have come out in opposition to SB 12. As the bill moves forward, the Legislature may adopt amendments that lessen the bill's potential impacts.

Want to learn more?

We are closely monitoring SB 12 and other proposed legislation. To read the bill in detail, access legislative summaries, and track amendments and votes, please [click here](#). If you have questions regarding SB 12 or how it may impact your property or development plans, or would like assistance in preparing comments for submittal to the Legislature, please contact Bill Delvac (bill@agd-landuse.com; 213-500-3521), Daniel Mandel (danny@agd-landuse.com; 310-254-9056), or your existing point of contact at our firm.
