

**SOUTH COAST HOMEOWNERS ASSOCIATION**  
**ANNUAL LEGISLATIVE FORUM**

January 19, 2022



The statements set forth below are provided to assist participants in following the program. They should not be interpreted as absolute statements of law. The actual application of any statute or court decision is dependent upon the facts and circumstances presented in each case.

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## New Legislation

### I. TWO HOUSES MAY BE PLACED ON A SINGLE-FAMILY RESIDENTIAL LOT

#### Senate Bill 9 / Government Code § 65852.21

A. 2 houses may be placed on a Single Family Residential Lot. This is separate and distinct from construction of Accessory Dwelling Units and/or Junior Dwelling Units allowed under Gov. Code 65852.2 & 65852.22.

B. Guidelines local agencies must comply with when processing an owner's application:

1. **Size:** Each unit can be at least 800 ft.<sup>2</sup>
2. **Setbacks:** Maximum setback for side and rear lot lines cannot be required to exceed 4 ft.
3. **Parking:** 1 parking space for each unit may be required. No parking is required for Units located within 1/2 mile of public transportation or a car share vehicle is located within one block of the parcel.
4. **Short-term Renting:** Renting for periods of less than 30 days is not allowed.
5. **ADU's & JADU's:** The local jurisdiction may deny an application for an Accessory Dwelling Unit, or Junior Accessory Dwelling Unit, for houses constructed pursuant to Senate Bill 9.
6. **Government Approval:** Approval is ministerial without discretionary review or hearing.
7. **Limited Grounds for Denial:** Denial is allowed for specific adverse impacts that are direct and unavoidable involving public health or safety (e.g. high & extremely high fire hazard areas, earthquake fault zones, flood hazard areas).

**II. RESIDENTIAL LOTS MAY BE SUBDIVIDED INTO TWO LOTS**

**TWO RESIDENTIAL UNITS MAY BE PLACED ON EACH LOT**

**Senate Bill 9 / Government Code 66411.7**

- A. A residential lot may be subdivided into 2 separate lots.
- B. There may be placed, on each divided lot, 2 residential structures of not less than 800 ft.<sup>2</sup>
- C. Guidelines local agencies must comply with when processing an owner's application:
1. **Lot Size:** Disparity between the divided lots cannot exceed 60% / 40%. Each parcel cannot be smaller than 1,200 ft.<sup>2</sup>. However, local agencies **may** adopt smaller minimum lot sizes.
  2. **Zoning:** The parcel being subdivided must be located in a single-family residential zone.
  3. **Setbacks:** For the newly created structures, setbacks cannot be required to exceed 4 feet.
  4. **Parking:** 1 parking space for each unit **may** be required. However, no parking is required for Units located within a 1/2 mile of public transportation or a car share vehicle is located within one block of the parcel.
  5. **Owner Occupancy:** The owner must sign an affidavit stating that they "**intend**" to occupy one of the housing units as a residence for 3 years from the date of the lot split.
  6. **Short-term Renting:** Renting for periods of less than 30 days is not allowed.
  7. **No Mitigation Fees:** Government approval cannot be conditioned on payment of off-site improvements.
  8. **Government Approval:** Approval is ministerial, without discretionary review or hearing.

**9. Limited Grounds for Denial:** Denial is allowed for specific adverse impacts that are direct and unavoidable involving public health or safety (e.g. high & extremely high fire hazard areas, earthquake fault zones, flood hazard areas).

### **III. 10 RESIDENTIAL UNITS MAY BE PLACED ON ONE LOT**

#### **Senate Bill 10 / Government Code 65913.5**

A. Senate Bill 10 allows local governmental agencies to adopt an ordinance allowing for up to 10 residential units per parcel.

B. Guidelines local agencies must follow:

**1. Location:** The lot must be within one half a mile of public transportation or a site located in the city or in an unincorporated area within the boundaries of an urban cluster (i.e. population containing at least 2,500 and less than 50,000 people).

**2. Excluded Locations:** Designated high or very high fire hazard areas.

### **IV. DIRECTORS ELECTED BY ACCLAMATION**

#### **Assembly Bill 502 / Civil Code § 5103**

A. Directors may now be elected by acclamation.

B. For an Association to elect by acclamation, the following procedures must be followed:

**1.** An election of Directors must have been held within the last 3 years.

**2.** The initial Notice for Nominations must be sent at least 90 days before the deadline for submitting nominations. The Notice must include the following:

**a.** The number of Board positions to be filled at the election;

**b.** The deadline for submitting nominations;

**c.** The manner in which nominations are to be submitted and;

**d.** A statement informing Members that if, at the close of the time period for making nominations, there are the same number or fewer qualified candidates as there are Board positions to be filled, the Board of Directors may, after voting to do so, seat the qualified candidates by acclamation without balloting. Form 28 A

**3.** To elect by acclamation, a Reminder Notice must be sent to the Members between 7 and 30 days **before** the deadline for submitting nominations. The Reminder Notice must include the following:

**a.** The number of Board positions to be filled at the election;

**b.** The deadline for submitting nominations;

**c.** The manner in which nominations can be submitted;

**d.** A list of the names of all qualified candidates nominated as of the date the Reminder Notice is sent and;

**e.** A statement that if at the close of the time period for making nominations there are the same number or fewer qualified candidates then there are Board positions to be filled, then the Board of Directors may, after voting to do so, seat the qualified candidates by acclamation without balloting. Form 28 B

**4.** Within 7 business days of receiving a nomination, the Association must send a written or electronic communication to the person submitting the nomination stating the following:

**a.** Confirmation that their nomination has been received and;

**b.** Confirmation that the nominee is qualified or is not qualified. If not qualified, the basis for the disqualification and notification that the nominee may appeal the disqualification through Internal Dispute Resolution per Civil Code §5900 et. seq.

**5.** The Association Board must vote to consider the qualified candidates elected by acclamation at a meeting for which the agenda item reflects the name

of each qualified candidate that will be seated by acclamation if approved by the Board.

**V. TERM LIMITS FOR DIRECTORS**

**Assembly Bill 502 / Civil Code § 5103 (d) (2)**

- A. Associations may adopt term limits for Directors.
- B. Term limits may be set forth in the Association's CC&R's; or in the Bylaws if not in conflict with the CC&R's; or in the Election Rules, if not in conflict with the Bylaws and/or CC&R's.

**VI. ASSISTANTS, TO THE INSPECTOR OF ELECTIONS, MUST QUALIFY AS INDEPENDENT 3<sup>RD</sup> PARTIES**

**Senate Bill 432 / Civil Code § 5105 (a) (6)**

- A. An Inspector of Elections may appoint individuals to assist in verifying signatures counting and tabulating the votes.
- B. The individuals appointed by the Inspector of Elections must now be "Independent Third Parties". An Independent Third Party includes, but is not limited to, volunteer poll worker with the registrar of voters; CPA; notary public; or Member of the Association who is not a Director, candidate for Director or related to a Director or candidate).
- C. An Independent Third Party may not be a person or entity currently employed and paid by the Association, other than being paid to serve as the Inspector Elections.

**VII. RETENTION OF ELECTION MATERIAL**

**Senate Bill 432 / Civil Code § 5200 (c)**

- A. "Election Material" includes the returned signed voter envelopes, ballots, proxies, the candidate registration list, which must include the name and address of all individuals nominated to the Board, and the voter list.
- B. The voter list must include name, voting power, address or parcel of the owner's unit and the address to which ballots are sent (Civil Code § (a) (7)).
- C. Election Material must be retained by the **ASSOCIATION** for one year after the date of the election.

**VIII. State of Emergency Declared, Procedure for Virtual Board Meetings**

**Senate Bill 391 / Civil Code § 5450**

**Emergency Legislation, Effective September 2021**

A. Upon the following conditions, Board meetings may be conducted entirely by telephone conference without any physical location noted for attendance of any Director or Member:

1. Meeting in person is unsafe or impossible because of a state of emergency declared by the Federal Government, State or Local Agency.

2. Notice of the Board meeting must be sent by individual delivery. The Notice must include:

a. Instructions on how to participate by telephone conference.

b. A telephone number and email address of a person who can provide technical assistance both before and during the meeting.

c. A reminder that Members may request individual delivery of meeting Notices with instructions on how to do so. Form 25 A

B. Where it is necessary to count and tabulate ballots, a virtual meeting may be held provided a camera is placed in a location so Members can witness the Inspector of Elections counting and tabulating the votes.

**IX. Required Amendment to CC&R's For Compliance with Rental Restrictions**

**Assembly Bill 1584 / Civil Code Section 4741**

A. Complete prohibitions against renting are not enforceable. Assembly Bill 1584 requires at least 25% of the Units in a complex be available for rental by owners desiring to rent Units.

B. A restriction on short-term rentals (i.e. 30 days or less) is permissible.

C. Requiring long term rentals (i.e. in excess of 30 days) is not enforceable.

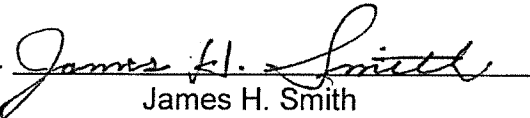
D. CC&R's, which are in conflict with the foregoing, **must** be amended on or before July 1, 2022.

E. The Board, without owner approval, is granted the power to amend, and must amend, the Association CC&R's to comply with Assembly Bill 1584. Prior to amending, the Board must first give notice to owners and allow owner comment.

F. Regardless of the adoption of a rental limitation, any owner renting their Unit, at the time a rental limitation is adopted, may continue to rent even if the total number of Units then rented exceeds the limitation (CC § 4740).

Wishing You all the Best in 2022

Rogers Sheffield & Campbell

By.   
James H. Smith



**Solicitation for Board of Director Nominations**

\_\_\_\_\_ **HOA**

This Solicitation for Board of Director Nominations is sent to you, by individual notice, at least 90 days before the deadline for submitting nominations pursuant to the provisions of California Civil Code § 5115 (a) and § 5105. Nominations are now open for eligible candidates to serve on the \_\_\_\_\_ Association's Board of Directors. There will be \_\_\_\_\_ seats on the Board of Directors that need to be filled at the next Annual Meeting of the Members to be held at a date to be announced. Members may self-nominate.

If, at the close of the time period for making nominations, there are the same number or fewer qualified candidates as there are Board positions to be filled then the Board of Directors may, after voting to do so, seat the qualified candidates by acclamation without balloting.

To determine if you are eligible to be a Candidate and/or serve on the Board, you should review the Association's Election and Voting Rules and Regulations. If you desire to submit a nomination, please fill out the below information and return this form to the \_\_\_\_\_ Association at \_\_\_\_\_, Ca. \_\_\_\_\_, or return by email to: \_\_\_\_\_ . Nominations must be received on or before \_\_\_\_\_

Candidate's Name: \_\_\_\_\_ Phone No: \_\_\_\_\_

Candidate's Unit Address: \_\_\_\_\_

Candidate's Mailing Address: \_\_\_\_\_

Candidate's Phone No.: \_\_\_\_\_ Candidate's Email: \_\_\_\_\_

Please provide any information you would like to disclose to the Members of the Association regarding yourself and why you are running for the Board. This information will be provided to the Members when the ballots are distributed. If more space is needed, you may attach an additional sheet. However, candidate statements distributed with the Ballots must be limited to 350 words or less. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By my signature below, I represent that I qualify to be a candidate and serve on the Board pursuant to the Association's Voting Rules and Regulations. Please sign and print your name.

Date: \_\_\_\_\_

**"Caution"**

**This form is provided as a courtesy by James H. Smith, Esq. of the law firm of Rogers, Sheffield & Campbell, LLP; Telephone: (805) 963-9721; Email: james@rogerssheffield.com. Your Association's Governing Documents and/or changes in the law may require this form to be modified.**

**Reminder Notice of Board Nominations**

\_\_\_\_\_ **HOA**

As required by Civil Code § 5103 (b) (2), this Reminder Notice of Board Nominations is sent to you, by individual notice, between 7 and 30 days **before** the deadline for submitting nominations to serve on the \_\_\_\_\_ HOA Board of Directors.

To determine if you are eligible to be a Candidate and/or serve on the Board, you should review the Association's Election and Voting Rules and Regulations. If you desire to submit a nomination, please fill out the below information and return this form to the \_\_\_\_\_ HOA at \_\_\_\_\_, Ca. \_\_\_\_\_, or return by email to: \_\_\_\_\_ . Nominations must be received on or before \_\_\_\_\_.

Candidate's Name: \_\_\_\_\_ Phone No: \_\_\_\_\_

Candidate's Unit Address: \_\_\_\_\_

Candidate's Mailing Address: \_\_\_\_\_

Candidate's Phone No.: \_\_\_\_\_ Candidate's Email: \_\_\_\_\_

Please provide any information you would like to disclose to the Members of the Association regarding yourself and why you are running for the Board. This information will be provided to the Members when the ballots are distributed. If more space is needed, you may attach an additional sheet. However, candidate statements distributed with the Ballots must be limited to 350 words or less.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A list of the names of all of the qualified candidates to fill Board positions, as of the date of this Reminder Notice, includes: \_\_\_\_\_

If, at the close of the time period for making nominations, there are the same number or fewer qualified candidates as there are Board positions to be filled then the Board of Directors may, after voting to do so, seat the qualified candidates by acclamation without balloting.

By my signature below, I represent that I qualify to be a candidate and serve on the Board pursuant to the Association's Voting Rules and Regulations. Please sign and print your name.

Date: \_\_\_\_\_

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**NOTICE OF VIRTUAL BOARD MEETING**

**HOA**

This Notice of Board Meeting is given by individual delivery pursuant to Civil Code § 5450. The Association is located in an area declared to be in a state of emergency. As a consequence, it has been determined that gathering in person is unsafe. Therefore, the below described Board Meeting will be held entirely by teleconference and ZOOM without any physical location being held open for the attendance of any Director or Member.

Meeting Date: \_\_\_\_\_.

Meeting Time: \_\_\_\_\_.

You may attend the meeting by teleconference by calling \_\_\_\_\_, or by ZOOM. The ZOOM invitation for the meeting is: \_\_\_\_\_.

The telephone number and email address of the person who can provide technical assistance for attendance at the meeting is \_\_\_\_\_. They may be contacted by phone at: \_\_\_\_\_, or email at: \_\_\_\_\_. They may be contacted both before and during the meeting.

You are reminded that as a member of the Association, you may request individual delivery of meeting notices by submitting a written request to the Association.

**Board Meeting Agenda**

1. Call to Order.
2. Roll call of Board Members and Confirmation of Quorum.
3. Confirmation of Posting/Service of Meeting Notice.
4. Confirmation of monthly Financial Review (CC §5500).
5. Approval of Minutes.
6. Report of Executive Session (if any).
- 7.
- 8.
9. **Executive Session:** The Board may meet in Executive Session immediately following the open Board meeting to discuss those matters which may be discussed in Executive Session including that set forth in Civil Code section 4935.

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