



DATE: October 25, 2016

CATEGORY: Consent

DEPT.: City Clerk's Office and City Attorney's Office

TITLE: **Ordinance Mandating the Use of Online or Electronic Filing of Campaign Statements and Statements of Economic Interest**

RECOMMENDATION

Introduce an Ordinance Amending Chapter 2 of the Mountain View City Code Mandating the Use of Online or Electronic Filing of Campaign Statements and Statements of Economic Interest, to be read in title only, further reading waived (Attachment 1 to the Council report), and set a second reading for November 22, 2016.

BACKGROUND

On May 24, 2016, the City Council directed the City Clerk to implement an electronic filing system for campaign statements and other documents required to be filed under the Political Reform Act (PRA). The City Council also directed staff to prepare an ordinance requiring campaign statements and Statements of Economic Interest (Form 700s) to be filed electronically on a voluntary basis until January 2017, at which time electronic filing would become mandatory.

The City has implemented an electronic filing system offered by the vendor, NetFile, Inc. NetFile, Inc., is a provider approved by the Secretary of State. The Fair Political Practices Commission has certified the City's electronic filing system. The system is operational and is being used on a voluntary basis. In order for the City to require the electronic filing of campaign finance disclosure statements and Form 700s in the next calendar year, is it necessary to update the City Code to include such a requirement.

Government Code Section 84615 allows a local government agency to mandate online or electronic filing for an elected officer, candidate, committee, or other person who is required to file campaign statements, reports, or other documents as required by Chapter 4 (commencing with Section 84100 of the Government Code) if the elected officer, candidate, committee, or other person required to file receives contributions of \$1,000 or more, and makes expenditures of \$1,000 or more, in a calendar year. Online or

electronic filing of Form 700s required by the PRA may also be required and would use the same system. The law prescribes criteria that must be satisfied by a local government agency to require online or electronic filing of statements, reports, or other documents. The system must be available free of charge to filers and the public for viewing filings and must include a procedure for filers to comply with the requirement that they sign statements and reports under penalty of perjury. The system will operate securely and effectively and would not unduly burden filers.

The online or electronic filing system only accepts a filing in the standardized record format developed by the Secretary of State and is compatible with the Secretary of State's system for receiving an online or electronic filing.

Electronic filings reduce the staff time required to process the campaign reports and Form 700s, and also improve public accessibility by allowing the public to view the filings at any time without needing to come to the City Clerk's Office. Since 2013, numerous cities and counties have converted to online or electronic campaign financing filing requirements, including regionally Santa Clara County and the cities of Palo Alto, Pleasanton, San Jose, and Santa Clara.

ANALYSIS

Pursuant to Government Code Section 84615, a local government agency may require an elected officer, candidate, committee, or other person who is required to file campaign statements, reports, or other documents as required by Chapter 4 of the Political Reform Act (commencing with Section 84100 of the Government Code) to file electronically with the local filing officer if the elected officer, candidate, committee, or other person required to file receives contributions of \$1,000 or more, and makes expenditures of \$1,000 or more, in a calendar year. Nothing in the law prevents the City from accepting electronic filings from those who opt-in to the electronic filing system. Most cities and counties who have adopted paperless electronic filing have adopted the same requirement thresholds contained in State law. While the City could set the threshold for mandatory electronic filing with the City at a higher dollar amount than the threshold authorized under State law, staff recommends setting the threshold for compliance consistent with the amounts set forth in State law.

In order to enact the online and electronic filing provisions authorized by State law, the proposed ordinance adds sections to the Mountain View City Code (MVCC) which: (1) mandates electronic filings for those elected officers, candidates, committees, or other persons required to file statements, reports, or other documents under State law; (2) sets the monetary threshold and types of documents subject to mandatory electronic filing;

and (3) contains an “opt-in” provision, whereby a filer that uses the electronic filing system one time is required to electronically file all documents in the future. Note, the “opt-in rule” is not required, but is a provision used by numerous cities for ease of administration and is recommended by staff. In addition, MVCC Section 2.101 must also be amended to remove the prior requirement for hard-copy campaign disclosure reports to be filed.

The ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Guidelines Section 15060(c)(2) because the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment; and Guidelines Section 15060(c)(3) because the activity is not a project as defined in Guidelines Section 15378 because it has no potential for resulting in physical change to the environment, directly or indirectly.

FISCAL IMPACT

The contract with NetFile, Inc., to administer the e-filing system will cost approximately \$9,100 per year (\$6,500 for campaign filing; \$2,600 for Form 700). The existing budget will be used to fund the implementation of the system. Funding for future years will be included in the budget beginning in Fiscal Year 2017-18.

ALTERNATIVES – Not introduce the ordinance. E-filing would remain voluntary.

PUBLIC NOTICING – Agenda posting.

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City Clerk

KC/LK/2/CAM
011-10-25-16CR-E

Attachment: 1. Ordinance