



NOTICE OF PUBLIC HEARING

**THIS HEARING WILL BE CONDUCTED VIA WEBINAR/TELECONFERENCE.
THE COUNCIL CHAMBERS WILL NOT BE OPEN TO THE PUBLIC.**

Pursuant to Executive Orders issued by Governor Newsom to ensure the health and safety of the public by limiting human contact that could spread COVID-19, this meeting will be conducted remotely via the ZOOM virtual meeting platform. In compliance with the Governor's Executive Orders, there will be no in-person meeting location, however the public may participate using any of the remote methods described in this notice.

NOTICE IS HEREBY GIVEN that a public hearing will be held before the Montclair City Council on Monday, June 1, 2020, at 7:00 p.m. concerning the following:

Ordinance No. 20-990 amending certain sections of Chapter 2.12 of the Montclair Municipal Code requiring electronic filing for certain documents required to be filed by elected officers, candidates, committees, and other persons or entities in relation to General Municipal Elections in the City of Montclair and making other amendments and corrections to the Code in relation thereto.

Full text of the proposed Ordinance may be reviewed at least 72 hours prior to the hearing using any of the following methods:

1. By calling (909) 625-9416 or emailing cityclerk@cityofmontclair.org to request an appointment to review the document in the Office of the City Clerk located at 5111 Benito Street, Montclair, California, during regular business hours Monday through Thursday, 7:00 a.m. to 6:00 p.m.
2. By downloading the agenda packet for the June 1, 2020, regular City Council meeting posted on the City's website at www.cityofmontclair.org/agendas and reviewing the document within the packet.

INVITATION TO BE HEARD: All interested persons will be given an opportunity to comment on this item at the public hearing and any subsequent public hearings conducted related to this item. Please review the agenda for the webinar link and teleconference information. Detailed instructions and protocols to comment live during the hearing can be found on the City's website at www.cityofmontclair.org/cc-comment and on the agenda of the meeting at which the hearing will take place.

In addition, written comments may be submitted prior to the hearing by mailing them to the City Clerk's Office at 5111 Benito Street, Montclair, CA 91763; or by emailing them to cityclerk@cityofmontclair.org. Please reference the hearing date and subject in any correspondence. If you wish to challenge the above item in court, the challenge will be limited only to those issues you or someone else raised at the public hearing(s) orally or in written correspondence delivered to the City at or prior to the public hearing(s) as described in this notice.

Andrea M. Phillips
City Clerk

Dated: Wednesday, May 27, 2020

ORDINANCE NO. 20-990

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING CERTAIN SECTIONS OF CHAPTER 2.12 OF THE MONTCLAIR MUNICIPAL CODE REQUIRING ELECTRONIC FILING FOR CERTAIN DOCUMENTS REQUIRED TO BE FILED BY ELECTED OFFICERS, CANDIDATES, COMMITTEES, AND OTHER PERSONS OR ENTITIES IN RELATION TO GENERAL MUNICIPAL ELECTIONS IN THE CITY OF MONTCLAIR AND MAKING OTHER AMENDMENTS AND CORRECTIONS TO THE CODE IN RELATION THERETO

WHEREAS, California Government Code Section 84615 provides that a legislative body of a local government agency may adopt an ordinance that requires an elected officer, candidate, committee, or other person required to file statements, reports, or other documents required by Chapter 4 of the Political Reform Act to file such statements, reports, or other documents online or electronically with the City Clerk except for when such persons receive contributions totaling less than \$2,000 and make expenditures totaling less than \$2,000; and

WHEREAS, on May 18, 2020, the City entered into Agreement No. 20-36 with NetFile, a vendor approved by the California Secretary of State to provide an online electronic filing system ("System") for Fair Political Practices Commission Campaign Disclosure Statements and Statement of Economic Interests forms; and

WHEREAS, the System will operate securely and effectively and will not unduly burden filers—specifically, the System will:

1. Ensure the integrity of the data and include safeguards against efforts to tamper with, manipulate, alter, or subvert the data;
2. Only accept a filing in the standardized record format developed by the Secretary of State and compatible with the Secretary of State's system for receiving an online or electronic filing; and
3. Be available free of charge to filers and to the public for viewing filings; and

WHEREAS, the following additional errors have existed in the Montclair Municipal Code relating to elections and campaign responsibilities for some time and should be corrected:

1. Section 2.12.020 (A) Municipal Election. — Correction.

In 1991, in accordance with the City's transition from holding stand-alone elections to consolidating with the County of San Bernardino, the City Council adopted Ordinance No. 91-703 to align the date of the City of Montclair's General Municipal Election with the Statewide General Election.

Upon recodification of the Municipal Code in 1999, the existing language in the Code was to be updated to reflect the correct election date in the Code. The original outdated language, incorrectly stating Montclair's General Municipal Elections are held the "second Tuesday in April," was changed to "the second Tuesday in November" when it should have instead been corrected to "the first Tuesday after the first Monday in November;" and

2. Section 2.12.020 (D) Expenditure Ceiling. — Repeal.

Ordinance No. 97-773 enacting this section was adopted by the City Council on October 6, 1997 in response to the voters' passage of California Proposition 208 ("Prop 208," the Campaign Contributions and Spending Limits Initiative) at the November 5, 1996 statewide election, which would have done all of the following:

- a. Limited the amount of campaign contributions that an individual or group could make to a candidate for state and local elective offices;
- b. Prohibited lobbyists from making contributions;

- c. Established voluntary campaign spending limits;
- d. Limited when campaign fund-raising may occur; and
- e. Established penalties for violations of the measures and increased penalties for existing campaign law violations.

Prop 208 was only in place for a year before a federal judge declared it unconstitutional and suspended the measure in January of 1998. Supporters of Prop 208 appealed the decision.

The recodification document for the Montclair Municipal Code, adopted by Ordinance No. 99-791 on June 21, 1999, acknowledges the fact that Section 2.12.020 (D) may require repeal pending the outcome of the appeal of the federal court's Prop 208 decision, which was ultimately denied; however, the section of the code was never removed. The language of Section 2.12.020 (D) in the Montclair Municipal Code refers to "Chapter 5 of Title 9 of the Government Code,"—a section that no longer exists as part of the California Government Code due to the federal court's nullification of Prop 208.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTCLAIR HEREBY ORDAINS AS FOLLOWS:

SECTION I. Section 2.12.020 of the Montclair Municipal Code is hereby amended to read as follows:

2.12.020 – General election – Elective officers, term, and electronic filing of campaign disclosure statements.

SECTION II. Section 2.12.020 (A) of the Montclair Municipal Code is hereby amended to read as follows:

A. Municipal election. A general municipal election shall be held on the first Tuesday after the first Monday in November of each even-numbered year and shall be consolidated with the statewide general election.

SECTION III. Section 2.12.020 (D) of the Montclair Municipal Code is hereby repealed and replaced as follows:

~~D. Expenditure Ceiling:~~

~~1. A voluntary expenditure ceiling of 25 cents per resident for each candidate at a Montclair municipal election at which candidates for Mayor or City Council are on the ballot is imposed.~~

~~2. Each candidate for the office of Mayor or City Council shall file a statement of acceptance or rejection of the voluntary expenditure ceiling before accepting any contributions.~~

~~3. Contribution limitations depend on whether or not the expenditure limit is accepted, and are pursuant to Chapter 5 of Title 9 of the Government Code.~~

D. Electronic filing of campaign disclosure statements.

1. Electronic statement filing. Any elected officer, candidate, committee or other person or entity required to file statements, reports or other documents required by Government Code Section 84100 et seq. must file those statements, reports or other documents online or electronically with the City Clerk. However, an elected officer, candidate, committee or other person or entity receiving contributions totaling less than two thousand dollars (\$2,000) and making expenditures totaling less than two thousand dollars (\$2,000) in a calendar year is not subject to the requirements of this section.

2. Filing of copies electronically. In any instance in which an original statement, report or other document must be filed with the California Secretary of State and a copy of that statement, report or other document is required to be filed with the City Clerk, the filer may, but is not required to, file the copy electronically.

3. If the City Clerk's electronic system is not capable of accepting a particular type of statement, report or other document, an elected officer, candidate, committee or other person shall file that document with the City Clerk in an alternative format.

4. The date of filing for a statement, report, or other document that is filed online or electronically pursuant to this section shall be the day that it is received by the City Clerk. The City Clerk shall issue to a person who files a statement, report, or other document online or electronically an electronic confirmation that notifies the filer that the statement, report, or other document was received. The confirmation shall include the date and the time that the statement, report, or other document was received by the City Clerk and the method by which the filer may view and print the data received by the City Clerk.

SECTION IV. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional.

SECTION V. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after passage.

SECTION VI. Posting. The City Clerk shall certify to the passage of this Ordinance and cause the same to be posted pursuant to Government Code Section 36933.

APPROVED AND ADOPTED this XX day of XX, 2020.

Mayor

ATTEST:

City Clerk

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 20-990 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2020, and finally passed not less than five (5) days thereafter on the XX day of XX, 2020, by the following vote, to-wit:

AYES: XX
NOES: XX
ABSTAIN: XX
ABSENT: XX

Andrea M. Phillips
City Clerk