



Council Agenda Report

To: Mayor Pierson and the Honorable Members of the City Council

Prepared by: Heather Glaser, City Clerk

Approved by: Reva Feldman, City Manager

Date prepared: December 1, 2020 Meeting date: January 11, 2021

Subject: Ordinance to Require Electronic Filing of Campaign Disclosure Statements and Statements of Economic Interests

RECOMMENDED ACTION: 1) Introduce on first reading Ordinance No. 479 adding Chapter 2.68 (Electronic Filing) to Title 2 (Administration and Personnel) to the Malibu Municipal Code to require electronic filing of campaign statements and statements of economic interests and finding the same exempt from the California Environmental Quality Act; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 479 for the January 25, 2021 Regular City Council meeting.

FISCAL IMPACT: Funding for this item was not included in the Adopted Budget for Fiscal Year 2020-2021. NetFile is allowing the City to utilize services free of charge through June 30, 2021. Funding for these services will be added to future year budgets.

WORK PLAN: This item was included as item 6e in the Adopted Work Plan for Fiscal Year 2020-2021.

DISCUSSION: Government Code Section 84615 allows local government agencies to require an elected and appointed official, candidate, or committee to file Fair Political Practices Commission (FPPC) campaign statements, reports, or other documents online or electronically with a local filing officer. The City Clerk is the local filing officer for the City of Malibu.

In order for the City to accept electronically filed statements, the Council must adopt an ordinance permitting the use of an online filing system as an option for filing and designating the filings received electronically by the City Clerk's Office as the filings of record for the City. In addition, the system must operate securely and effectively, be no cost to filers, be available to the public to view filings, not place an undue burden on

filers, and include procedures for filers to comply with the requirement that they sign statements and reports under penalty of perjury.

Adoption of the proposed ordinance is required to implement electronic filings of FPPC Form 700 Statement of Economic Interests and Form 460 Campaign Statements. Electronic filing requirements will only apply to those filers that exceed a threshold of \$2,000 for expending or receiving campaign funds. For those smaller campaigns that do not exceed the \$2,000 threshold, they may continue to file paper versions of the Form 470 Officeholder and Candidate Campaign Statement when necessary. If the Form 470 filer opts to electronically file their form through the system, they will not be required to turn in a wet signed paper copy.

Assembly Bill (AB) 2151 went into effect on January 1, 2021, which modifies the Act to require all local government agencies to post on its website a copy of any statement, report, or other document required by Chapter 4 (commencing with Section 84100) that is filed with that agency in paper format within 72 hours of the filing deadline. Before posting, the local filing officer shall redact the street name and building number of the persons or entity representatives listed on any statement, report, or document, or any bank account number required to be disclosed by the filer. Reports and statements must remain on the local government agency's website for at least four years. Use of an electronic filing system will ensure a properly redacted version is posted in timely compliance with this mandate.

The City has obtained access to NetFile free of charge through June 30, 2021. The NetFile system meets all the requirements of GC 84615 to provide an online electronic filing system for campaign disclosure statements. The NetFile system has been approved almost 200 times by the Fair Political Practices Commission (FPPC) for paperless filing of statements of economic interests. The NetFile system is a web-based, vendor-hosted application that utilizes "industry best practices" for securing data, using the same data encryption for online filings that is used by banks for online banking. NetFile stores and backs up data at three separate locations, creating the essential safety measures and redundancy that will allow for recovery of information in the event of an emergency or disaster. The City's data will be retained for the required minimum 10-year period. Use of NetFile would take the place of filing directly with the FPPC for all Government Code Section 87200 filers. For professional campaign treasurers that have already purchased campaign software, NetFile is able to receive uploaded data from third-party applications that are approved by the Secretary of State for electronic filing purposes.

The NetFile system is able to accommodate the online filing of several types of forms required by the FPPC and provides a tracking system for AB 1234 (Ethics Training) and AB 1825 (Sexual Harassment Prevention Training). The NetFile system is created

specifically for cities and counties responsible for administering campaign finance filings and Statements of Economic Interests, meets the requirements of the Secretary of State, and allows for electronic and paperless filing of campaign statements.

Implementation of the NetFile system will promote transparency and make it more convenient for committees, individuals, and the public. It provides 24-hour filing and viewing accessibility of campaign finance information from any computer, anywhere. In certain instances, the NetFile program will also increase the accuracy of filed campaign statements by almost entirely eliminating the number of filings that may have inadvertently omitted required information under the Act (e.g. missing addresses or the stated occupation of individual donors).

City staff recommends introducing on first reading Ordinance No. 479 and directing staff to schedule second reading and adoption for the January 25, 2021 City Council Regular meeting.

ATTACHMENTS: Ordinance No. 479

ORDINANCE NO. 479

AN ORDINANCE OF THE CITY OF MALIBU ADDING CHAPTER 2.68 (ELECTRONIC FILING) TO TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE MALIBU MUNICIPAL CODE TO REQUIRE ELECTRONIC FILING OF CAMPAIGN STATEMENTS AND STATEMENTS OF ECONOMIC INTERESTS AND FINDING THE SAME EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does ordain as follows:

SECTION 1. Purpose

A. Government Code Section 84615 currently provides that a local agency may adopt an ordinance to require 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 (commencing with Section 84100 of the Government Code), except an elected officer, candidate, committee, or other person who receives contributions totaling less than \$2,000 and who makes independent expenditures totaling less than \$2,000 in a calendar year, to file those statements, reports, or other documents online or electronically with the local filing officer.

B. The City intends to enter into an agreement with NetFile, Inc., a vendor that will ensure the City meets all of the requirements of Government Code 84615, to provide an online electronic filing system ("System") for campaign disclosure statements and statements of economic interest forms; and

C. The System will operate securely and effectively and will not unduly burden filers. Specifically: (1) the System will ensure the integrity of the data and includes safeguards against efforts to tamper with, manipulate, alter, or subvert the data; (2) the System will 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) the System will be available free of charge to filers and to the public for viewing filings; and

D. The City desires to amend the Malibu Municipal Code to add a new Chapter relating to electronic filing of campaign and conflict of interest statements.

SECTION 2. Chapter 2.68 Electronic Filing is hereby added to read in its entirety as follows:

Chapter 2.68

ELECTRONIC FILING

2.68.010 Campaign Finance Filing

2.68.020 Statements of Economic Interests Filing

2.68.010 Campaign Finance Filing

1. Any elected officer, candidate, committee, or other person required to file statements, reports, or other documents required by Government Code Chapter 4 (commencing with Section 84100), except an elected officer, candidate, committee, or other person who receives contributions totaling less than two thousand dollars (\$2,000), and makes expenditures totaling less than two thousand dollars (\$2,000) in a calendar year, shall file those statements, reports, or other documents online or electronically with the City Clerk.

2. 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.

2.68.020 Statements of Economic Interests Filing

Any person holding a position listed in Government Code Section 87200 or designated in the City's local conflict of interest code adopted pursuant to Government Code Section 87300 shall file any required Statement of Economic Interests (Form 700) online or electronically with the City Clerk.

SECTION 3. Environmental Review.

The City Council finds that adoption and implementation of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment, and Section 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 4. The City Clerk shall certify the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published or posted in the same manner required by law.

PASSED, APPROVED AND ADOPTED this ____ day of ____ 2021.

MIKKE PIERSON, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE
JOHN COTTI, Interim City Attorney