

**CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL**

ORDINANCE NO. 2020-007

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA
ADDING CHAPTER 2.04.170 TO THE CARMEL-BY-THE-SEA MUNICIPAL CODE
RELATING TO ELECTRONIC AND PAPERLESS FILING OF FAIR POLITICAL
PRACTICES COMMISSION CAMPAIGN DISCLOSURE STATEMENTS**

WHEREAS, public access to campaign disclosure information is an integral component of a fully informed electorate, and transparency is critical in order to maintain public trust and support of the political process; and

WHEREAS, since the enactment of the Political Reform Act, candidates and committees have complied with filing requirements by filing paper copies of campaign statements and reports; and

WHEREAS, the City Clerk of the City of Carmel-by-the-Sea ("City Clerk") is the Local Filing Officer for the Fair Political Practices Commission disclosure statements and is responsible for receiving, reviewing, and making available campaign disclosure statements; and

WHEREAS, the elimination of manual processing of filings through electronic filing requirements will conserve resources and ensure the public has access to the information disclosed in campaign statements; and

WHEREAS, AB 2151 signed by Governor Newsom adds Section 84616 to the Government Code and requires 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"; and

WHEREAS, the City Clerk has identified a web-based system that will allow electronic filing in compliance with California Government Code section 84615 and has been approved by the Secretary of State for the electronic filing of campaign disclosure statements; and

WHEREAS, the City Council of the City of Carmel-by-the-Sea ("City Council") finds and determines as follows:

A. That 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;

B. In any instance in which the original statement is required to be filed with the Secretary of State and a copy of that statement is required to be filed with the local government agency, the filer may file the copy online or electronically, but is not required to do so;

C. The City Council expressly finds and determines that the City Clerk's web-based system has been approved by the Secretary of State for the electronic filing of campaign disclosure statements, and that the software contains multiple safeguards to protect the integrity and security of the data, will operate securely and effectively, and will not unduly burden filers; and

D. The City Clerk will operate the electronic filing system in compliance with the requirements of California Government Code section 84615, as may be amended from time to time and any other applicable laws.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARMEL- BY-THE-SEA DOES ORDAIN AS FOLLOWS:

Section 1. Environmental Review. The City Council exercises its independent judgment and finds that the proposed ordinance is not subject to California Environmental Quality Act (CEQA), pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), and section 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because the subject regulations have no potential for resulting in any significant physical change to the environment, either directly or indirectly.

Section 2. Amendment to the Municipal Code. Section 2.04.170 of the Carmel-by-the-Sea Municipal Code is hereby added as follows:

"2.04.170 Campaign Disclosure Statements, Electronic Filing.

A. General.

1. Any elected officer, candidate, committee, or other person required to file statements, reports or other documents ("Statements") as required by Chapter 4 of the Political Reform Act (California Government Code section 84100, *et seq.*) ("Filers") shall file such Statements using the City Clerk's online system according to procedures established by the City Clerk (the "Procedures").

2. The City Clerk shall have the authority to establish and amend the Procedures, as necessary, to accomplish the following:

a. Ensure that the online system complies with the requirements set forth in Section 84615 of the Government Code, as may be amended from time to time;

- b. Meet the purpose and intent of this ordinance and comply with other applicable law; and
 - c. Ensure the integrity of the data transmitted and include safeguards against efforts to tamper with, manipulate, alter, or subvert the data.
3. Online filings made under this Chapter will only be accepted if made in the standardized record format that is developed by the California Secretary of State pursuant to Section 84602(a)(2) of the California Government Code, as may be amended from time to time, and that is compatible with the Secretary of State's system for receiving an online or electronic filing.
- B. Procedures for Utilizing Online Filing.

1. During the period commencing with the effective date of this Ordinance, an elected officer, candidate, or committee shall use the electronic filing system by electronically filing a Statement that is required to be filed with the City Clerk pursuant to Chapter 4 of the Political Reform Act (California Government Code Section 84100 *et seq.*), unless the officer, candidate or committee is exempt pursuant to California Government Code Section 84615.
2. Any elected officer, candidate, or committee who has electronically filed a statement using the City Clerk's online system is not required to file a copy of that document in paper format with the City Clerk.
3. The City Clerk shall issue an electronic confirmation that notifies the filer that the Statement was received, which notification shall include the date and the time that the Statement was received and the method by which the filer may view and print the data received by the City Clerk. The date of filing for a Statement filed online shall be the day that it is received by the City Clerk.
4. If the City Clerk's online system is not capable of accepting a Statement, an elected officer, candidate, or committee shall file that Statement in paper format with the City Clerk.
5. The online or electronic filing system shall include a procedure for filers to comply with the requirement that they sign statements and reports under penalty of perjury and verify filings pursuant to Section 81004.
6. The online filing system shall enable electronic filers to complete and submit filings free of charge.

C. Availability of Statements for Public Review, Record Retention.

1. The City Clerk's system shall make all the data filed available on the Internet in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. The data made available on the Internet shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed by the filer. The City Clerk's office shall make a complete, unredacted copy of the statement, including any street names, building numbers, and bank account numbers disclosed by the filer, available to any persons, and available to any person upon request.
2. The City Clerk's office shall maintain, for a period of at least 10 years commencing from the date filed, a secured, official version of each online or electronic statement which shall serve as the official version of that record for purpose of audits and any other legal purpose."

Section 3. Severability. If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Carmel-by-the-Sea hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

SECTION 4. Publication. The City Clerk is directed to certify this ordinance and cause it to be published in the manner required by law.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL BY-
THE-SEA this 5th day of January, 2021, by the following vote:**

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter
Mayor

Britt Avrit, MMC
City Clerk