

ORDINANCE NO. 410

AN ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, AMENDING SECTION 2.04.050, FILLING OF VACANCIES, OF CHAPTER 2.04, CITY COUNCIL, OF TITLE 2, ADMINISTRATION AND PERSONNEL, OF THE MOORPARK MUNICIPAL CODE

WHEREAS, Section 2.04.050 of the Moorpark Municipal Code was adopted by Ordinance 77 to establish the requirements for filling a vacancy on the City Council; and

WHEREAS, the current language of Section 2.04.050 of the Moorpark Municipal Code is not in compliance with the specific wording contained in Section 36512 of the California Government Code, which sets forth the legal authority to fill a vacancy that occurs in an elective office; and

WHEREAS, Government Code Section 36512(b) provides the authority for a Council to either fill a vacancy in an elective office by appointment or by calling a special election, which allows the decision on the appropriateness of either making an appointment or calling a special election to be made within the established time period following the commencement of the vacancy; and

WHEREAS, Government Code Section 34902(a) regulates the filling of a vacancy in the office of the Mayor, and is generally consistent with Government Code Section 36512(b); and

WHEREAS, Government Code Section 36512(c) provides that notwithstanding subdivision (b) and Section 34902, a city may enact an ordinance that does any of the three options listed, including Section 36512(c)(2), which requires that a special election be held to fill a city council vacancy and the office of mayor designated pursuant to Section 34902 when petitions bearing a specified number of verified signatures are filed; and

WHEREAS, at the regular meeting of January 4, 2012, the City Council determined to amend Section 2.04.050 of the Moorpark Municipal Code consistent with Government Code Sections 36512(b), 34902(a), and 36512(c)(2) and California Elections Code Section 100.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES ORDAIN AS FOLLOWS:

SECTION 1. That Moorpark Municipal Code Section 2.04.050, Filling of Vacancies, of Chapter 2.04, City Council, is hereby replaced in its entirety to read:

“2.04.050 Filling of vacancies.

If a vacancy occurs on the city council, or in the office of elected mayor, the city council shall fill such vacancy as provided for in Government Code Sections 36512(b) and 34902(a); provided, however, that pursuant to Section 36512(c)(2), the city council shall wait thirty (30) days from the occurrence of the vacancy prior to making any appointment to fill the vacancy to allow for the submission of petition(s) in the format set forth in Elections Code Section 100 bearing the verified signatures of ten percent (10%) of the registered voters of the city according to the last report of registration by the county elections official to the Secretary of State pursuant to Section 2187 of the Elections Code, in which case a special election shall be called to be held on the next regularly established election date not less than 114 days from the filing of the petition and no appointment shall be made. All references to statutes in this section shall include sections amendatory or supplementary thereto.”

SECTION 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 3. This ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 4. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall publish notice of adoption in the manner required by law.

PASSED AND ADOPTED this 18th day of January, 2012.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk