

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to the Election Campaign Contributions Code; adding a new Section 2.04.295 to the Seattle Municipal Code (SMC); and amending SMC Sections 2.04.010, 2.04.290, 2.04.375, 2.04.500, and 3.70.100.

..body

WHEREAS, in recent election cycles it has become commonplace for political committees

active in Seattle elections to make contributions to other political committees, making it

difficult for Seattle residents to easily identify the actual sources of campaign

contributions; and

WHEREAS, on April 22, 2019, the Washington State Legislature adopted House Bill (HB)

1379, concerning disclosure of sponsors and donors in political advertisements; and

WHEREAS, HB 1379 provides that disclosures of advertising contributions from political

committees must also identify the individuals or entities contributing to those political

committees; and

WHEREAS, when it serves the public interest, the City strives for harmony between the

provisions of State and City law; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 2.04.010 of the Seattle Municipal Code, last amended by Ordinance 124694, is amended as follows:

2.04.010 Definitions ((=))

* * *

1 “Sponsor” means the candidate, political committee or person paying for the political
2 advertising. If a person acts as an agent for another or is reimbursed by another for the payment,
3 the agent's principal or the source of the reimbursement is the sponsor.

4 “Yard sign” means any outdoor sign with dimensions no greater than 8 feet by 4 feet.

5 As used in this (~~chapter~~) Chapter 2.04, the singular shall include the plural and
6 conversely, and any gender (~~(, any other)~~) shall include all others, as the context requires.

7 Section 2. Section 2.04.290 of the Seattle Municipal Code, last amended by Ordinance
8 124694, is amended as follows:

9 **2.04.290 Identification of contributions and communications (~~-~~)**

10 A. No contribution shall be made and no expenditure shall be incurred, directly or
11 indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or
12 other person in such a manner as to conceal the identity of the source of the contribution or in
13 any other manner so as to effect concealment.

14 B. 1. All audio and video political advertising, whether relating to candidates or
15 ballot propositions, must state “paid for by” or “sponsored by,” followed by the sponsor’s name.
16 All other political advertising, whether relating to candidates or ballot propositions, must state
17 “paid for by” or “sponsored by,” followed by the sponsor’s name and address. The use of an
18 assumed name is unlawful.

19 2. In addition to the materials required by subsection 2.04.290.B.1, all
20 political advertising undertaken as an independent expenditure by a person (~~(or entity)~~), other
21 than a bona fide political party as defined in RCW 42.17A.005(6), must include the following as
22 part of the communication:

1 ~~((a))~~ a. The statement: “No candidate authorized this ad. It is paid
2 for by (name, address, city, state)”;

3 ~~((b))~~ b. If the sponsor is a political committee, the statement: “Top
4 Five Contributors,” followed by a listing of the names of the five persons ~~((or entities))~~ making
5 the largest contributions in excess of ~~(((\$700))~~ \$500 reportable under this chapter during the
6 twelve month period before the date of the advertisement or communication as determined by
7 Section 2.04.295.A; and if necessary, the statement “Top Three Donors to PAC Contributors,”
8 followed by a listing of the names of the three individuals or entities, other than political
9 committees, making the largest aggregated contributions as determined by subsection
10 2.04.295.B; and

11 ~~((c))~~ c. If the sponsor is a political committee established,
12 maintained, or controlled directly, or indirectly through the formation of one or more political
13 committees, by an individual, corporation, union, association, or other entity, the full name of
14 that individual or entity.

15 ~~((3.—Political advertising costing \$1,000 or more supporting or opposing ballot~~
16 ~~measures sponsored by a political committee must include the information on the “Top Five~~
17 ~~Contributors” consistent with subsections 2.04.290.B.2.b. A series of political advertising~~
18 ~~sponsored by the same political committee, each of which is under \$1,000, must include the~~
19 ~~“Top Five Contributors” information required by Section 2.04.290 once their cumulative value~~
20 ~~reaches \$1,000 or more.))~~

21 (4) 3. The statements and listings of contributors required by subsections
22 2.04.290.B.1 ~~((;))~~ and 2.04.290.B.2 ~~((, and B.3))~~ must:

1 a. Appear on the first page or fold of the written communication in at
2 least ~~((ten))~~ 10-point type, or in type at least ten percent of the largest size type used in a written
3 communication directed at more than one voter, such as a billboard or poster, whichever is
4 larger;

5 b. Not be subject to the half-tone or screening process;

6 c. Be set apart from any other printed matter. No text may be before,
7 after, or immediately adjacent to the information required by subsections 2.04.290.B.1 and
8 2.04.290.B.2;

9 d. Be on a solid background; and

10 ~~((d))~~e. Be clearly spoken on any broadcast advertisement.

11 4. In an independent expenditure transmitted via television or other video
12 medium that includes a visual image, the following statement must be clearly spoken and appear
13 in print and be visible for at least four seconds, appear in letters greater than four percent of the
14 visual screen height on a solid black background on the entire bottom one-third of the visual
15 display screen, or bottom one-fourth of the screen if the sponsor does not have or is otherwise
16 not required to list its top five contributors, and have a reasonable color contrast with the
17 background: “No candidate authorized this ad. Paid for by (name, city, state).” If the
18 advertisement or communication is undertaken by a nonindividual other than a party
19 organization, then the following notation must also be included: “Top Five Contributors,”
20 followed by a listing of the names of the five persons making the largest aggregate contributions
21 as determined by subsection 2.04.295.A; and if necessary, the statement “Top Three Donors to
22 PAC Contributors,” followed by a listing of the names of the three individuals or entities other
23 than political committees making the largest aggregate contributions to political committees as

1 determined by subsection 2.04.295.B. Abbreviations may be used to describe contributing
2 entities if the full name of the entity has been clearly spoken previously during the broadcast
3 advertisement.

4 5. The following statement shall be clearly spoken in an independent
5 expenditure transmitted by a method that does not include a visual image: “No candidate
6 authorized this ad. Paid for by (name, city, state).” If the independent expenditure is undertaken
7 by a nonindividual other than a party organization, then the following statement must also be
8 included: “Top Five Contributors” followed by a listing of the names of the five persons making
9 the largest contributions as determined by subsection 2.04.295.A; and if necessary, the statement
10 “Top Three Donors to PAC Contributors,” followed by a listing of the names of the three
11 individuals or entities, other than political committees, making the largest aggregate
12 contributions to political committees as determined by subsection 2.04.295.B. Abbreviations
13 may be used to describe contributing entities if the full name of the entity has been clearly
14 spoken previously during the broadcast advertisement.

15 6. Political advertising costing \$1,000 or more supporting or opposing ballot
16 measures sponsored by a political committee must include the information on the top five
17 contributors and top three contributors, other than political committees, as required by Section
18 2.04.295. A series of political advertising sponsored by the same political committee, each of
19 which is under \$1,000, must include the top five contributors and top three contributors, other
20 than political committees, as required by Section 2.04.295.

21 7. Political yard signs are exempt from the requirements of this Section
22 2.04.290 that the sponsor’s name and address, and the top five contributors and top three PAC
23 contributors as required by Section 2.04.295, be listed on the advertising. In addition, the

1 Commission may, by rule, exempt from the identification requirements of this Section 2.04.290
2 forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing,
3 inscriptions, and other forms of advertising where identification is impractical.

4 Section 3. A new Section 2.04.295 of the Seattle Municipal Code is added to Subchapter
5 III of Chapter 2.04 as follows:

6 **2.04.295 Identification of contributors to political committees**

7 A. For any requirement to include the top five contributors under Section 2.04.290
8 or any other provision of this Chapter 2.04, the sponsor must identify the five persons making the
9 largest contributions to the sponsor in excess of \$500 during the 12-month period preceding the
10 date on which the advertisement is initially to be published or otherwise presented to the public.

11 B. If one or more of the top five contributors identified under subsection 2.04.295.A
12 is a political committee, the top three contributors to each of those political committees during
13 the same period must then be identified, and so on, until the individuals or entities other than
14 political committees with the largest aggregate contributions to each political committee
15 identified under subsection 2.04.295.A have also been identified. The sponsor must identify the
16 three individuals or entities, not including political committees, who made the largest aggregate
17 contributions to any political committee identified under subsection 2.04.295.A in excess of
18 \$500 during the same period, and the names of those individuals or entities must be displayed in
19 the advertisement alongside the statement “Top Three Donors to PAC Contributors.”

20 C. Contributions to the sponsor or a political committee that are earmarked, tracked,
21 and used for purposes other than the advertisement in question should not be counted in
22 identifying the top five contributors under subsection 2.04.295.A or the top three contributors
23 under subsection 2.04.295.B.

1 D. The sponsor shall not be liable for a violation of this Section 2.04.295 that occurs
2 because a contribution to any political committee identified under subsection 2.04.295.A has not
3 been reported to the Commission.

4 E. The Commission is authorized to adopt rules, as needed, to prevent ways to
5 circumvent the purposes of the required disclosures in this Section 2.04.295 to inform voters
6 about the individuals and entities sponsoring political advertisements.

7 Section 4. Section 2.04.375 of the Seattle Municipal Code, last amended by Ordinance
8 124018, is amended as follows:

9 **2.04.375 Reporting and disposition of campaign funds after election ((-))**

10 * * *

11 B. The surplus funds, including each capital asset for which the candidate or political
12 committee paid \$200 or more, or reported as an in-kind contribution with a value of \$200 or
13 more, may be disposed of only in one or more of the following ways:

14 1. Return the surplus to contributors in respective amounts not to exceed
15 each contributor's original contribution;

16 2. Transfer the surplus to the personal account of a candidate, or of a
17 treasurer or other individual as reimbursement for lost earnings incurred as a result of the
18 election campaign. Such lost earnings shall be verifiable as unpaid salary or, when the candidate,
19 treasurer, or individual is not salaried, as an amount not to exceed income received by the
20 candidate, treasurer, or individual for services rendered during an appropriate corresponding time
21 period. All lost earnings incurred shall be documented, and a record thereof shall be maintained
22 by the candidate, treasurer, or individual or by the political committee as the lost earnings accrue.
23 The committee shall maintain such information as a part of the campaign records;

1 3. Transfer the surplus to a political party or to a caucus of the state
2 legislature;

3 4. Donate the surplus to a charitable organization registered in accordance
4 with RCW Chapter 19.09;

5 5. Transmit the surplus to the state treasurer for deposit in the general fund;

6 6. A candidate who was elected to the office sought, or that candidate's
7 political committee, may transfer the surplus campaign funds to an account created under Section
8 2.04.480 for that individual's nonreimbursed expenses of that public office. This transfer shall be
9 treated as a contribution for purposes of Section 2.04.480;

10 7. A ballot proposition political committee may become a continuing
11 political committee and use the funds to support or oppose candidates and ballot propositions and
12 must report in accordance with Sections 2.04.230 through ~~((2.04.290))~~ 2.04.295.

13 Section 5. Section 2.04.500 of the Seattle Municipal Code, last amended by Ordinance
14 123070, is amended as follows:

15 **2.04.500 Civil remedies and sanctions ((+))**

16 A. 1. Upon determining pursuant to Sections 2.04.070 through 2.04.090 that a
17 violation has occurred, the Commission may issue an order requiring the party to take particular
18 action in order to comply with the law, and in addition, or alternatively, may impose sanctions up
19 to \$5,000 for each violation.

20 2. Upon determining that a contribution was illegally made or accepted, in
21 addition to the remedies in subsection ~~((A1))~~ 2.04.500.A.1, the Commission may order the return
22 of a contribution illegally made, and impose a penalty of two times the amount of a contribution

1 illegally made or accepted by a person who violates Section 2.04.180, 2.04.200, 2.04.210,
2 2.04.215, 2.04.240, 2.04.290, 2.04.295, 2.04.300, 2.04.370, or 2.04.480.

3 3. Upon determining that a report was filed excessively late, in addition to
4 the remedies in subsection A1, the Commission may impose a penalty of two times the amount
5 of each deposit or expenditure for each deposit or expenditure that was reported excessively late.
6 A report is excessively late if it was due more than 21 days before the election in which the
7 candidate or ballot proposition appeared on the ballot, but was not filed at least 21 days before
8 that election. A report is also excessively late if it was due within 21 days before the election in
9 which the candidate or ballot proposition appeared on the ballot, but was not timely filed.

10 4. In addition to the actions in subsections A1, A2, and A3 above, the
11 Commission may forward the determination of violation to the Seattle City Attorney or the King
12 County Prosecutor for prosecution. If the court finds that the violation of any provision of this
13 chapter by any candidate or political committee probably affected the outcome of any election,
14 the result of the election may be held void and a special election held within 60 days of such
15 finding. Any action to void an election shall be commenced within one year of the date of the
16 election in question. It is intended that this remedy be imposed freely in all appropriate cases to
17 protect the right of the electorate to an informed and knowledgeable vote.

18 B. Whether or not there is an administrative determination as provided in subsection
19 2.04.500.A, the violation or failure to comply with the provisions of Sections 2.04.160 through
20 ~~((2.04.290))~~ 2.04.295 (regarding campaign reporting), or Section 2.04.370 (regarding
21 contribution limitations) shall constitute an infraction, not subject to the Seattle Criminal Code,
22 for which a monetary fine, not to exceed \$5,000, may be assessed by a court, however, a person
23 or entity who violates Section 2.04.370 may be subject to a civil fine of \$5,000 or be required to

1 return the illegal contribution and pay a penalty of two times the amount of the contribution
2 illegally made or accepted, whichever is greater. Violation of the ordinance and existence of an
3 infraction may be proven by a preponderance of the evidence and need not be proven beyond a
4 reasonable doubt. An action seeking to establish the fact of an infraction and imposition of a
5 monetary fine under this ~~((section))~~ Section 2.04.500 may be commenced by the City Attorney at
6 a request of a majority of the Commission.

7 * * *

8 Section 6. Section 3.70.100 of the Seattle Municipal Code, last amended by Ordinance
9 124362, is amended as follows:

10 **3.70.100 Powers and duties**

11 The Commission shall have the following powers:

12 * * *

13 B. To publish the election pamphlet (~~((Code))~~ Chapter 2.14); to maintain as a public
14 record reports required by the City's election campaign code (~~((SMC))~~ Sections 2.04.150
15 through ~~((2.04.290))~~ 2.04.295) and publish data; to enforce limitations on campaign
16 contributions (~~((SMC))~~ Sections 2.04.340 through 2.04.350); ~~((to execute campaign contracts,~~
17 ~~disburse campaign matching funds (SMC Sections 2.04.400 through 2.04.470), and seek~~
18 ~~recovery thereof if funds are due the City (((SMC)) Sections 2.04.450 through 2.04.510); to~~
19 ~~solicit and accept donations for the campaign matching fund account)); to administer the~~
20 Democracy Voucher Program, and the other provisions of Honest Elections Seattle (Sections
21 2.04.600 through 2.04.696); and to promulgate forms for employee statements of economic
22 interest and maintain files for their public inspection (~~((SMC))~~ Section 4.16.080);

23 * * *

1 Section 7. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the _____ day of _____, 2019,
5 and signed by me in open session in authentication of its passage this ____ day of
6 _____, 2019.

7 _____
8 President _____ of the City Council

9 Approved by me this _____ day of _____, 2019.
10 _____
11 Jenny A. Durkan, Mayor

12 Filed by me this _____ day of _____, 2019.
13 _____
14 Monica Martinez Simmons, City Clerk

15 (Seal)