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 ((g))

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

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

As used in this Chapter, the singular shall include the plural and conversely, and any gender shall include all others, as the context requires.

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

2.04.290 Identification of contributions and communications ((e))

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

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

2. In addition to the materials required by subsection 2.04.290.B.1, all political advertising undertaken as an independent expenditure by a person (or entity), other than a bona fide political party as defined in RCW 42.17A.005(6), must include the following as part of the communication:
a. The statement: “No candidate authorized this ad. It is paid for by (name, address, city, state)”;

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

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

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

3. The statements and listings of contributors required by subsections 2.04.290.B.1 ((a)) and 2.04.290.B.2 ((b) and B.3)) must:
a. Appear on the first page or fold of the written communication in at least ((ten)) 10-point type, or in type at least ten percent of the largest size type used in a written communication directed at more than one voter, such as a billboard or poster, whichever is larger;

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

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

d. Be on a solid background; and

e. Be clearly spoken on any broadcast advertisement.

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

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

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

7. Political yard signs are exempt from the requirements of this Section 2.04.290 that the sponsor’s name and address, and the top five contributors and top three PAC contributors as required by Section 2.04.295, be listed on the advertising. In addition, the
Jeff Slayton
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Commission may, by rule, exempt from the identification requirements of this Section 2.04.290 forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

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

2.04.295 Identification of contributors to political committees

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

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

C. Contributions to the sponsor or a political committee that are earmarked, tracked, and used for purposes other than the advertisement in question should not be counted in identifying the top five contributors under subsection 2.04.295.A or the top three contributors under subsection 2.04.295.B.
D. The sponsor shall not be liable for a violation of this Section 2.04.295 that occurs because a contribution to any political committee identified under subsection 2.04.295.A has not been reported to the Commission.

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

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

2.04.375 Reporting and disposition of campaign funds after election (((c)))

* * *

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

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

2. Transfer the surplus to the personal account of a candidate, or of a treasurer or other individual as reimbursement for lost earnings incurred as a result of the election campaign. Such lost earnings shall be verifiable as unpaid salary or, when the candidate, treasurer, or individual is not salaried, as an amount not to exceed income received by the candidate, treasurer, or individual for services rendered during an appropriate corresponding time period. All lost earnings incurred shall be documented, and a record thereof shall be maintained by the candidate, treasurer, or individual or by the political committee as the lost earnings accrue.

The committee shall maintain such information as a part of the campaign records;
3. Transfer the surplus to a political party or to a caucus of the state legislature;

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

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

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

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

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

2.04.500 Civil remedies and sanctions ((1))

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

2. Upon determining that a contribution was illegally made or accepted, in addition to the remedies in subsection ((A1)) 2.04.500.A.1, the Commission may order the return of a contribution illegally made, and impose a penalty of two times the amount of a contribution.
illegally made or accepted by a person who violates Section 2.04.180, 2.04.200, 2.04.210, 2.04.215, 2.04.240, 2.04.290, 2.04.295, 2.04.300, 2.04.370, or 2.04.480.

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

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

B. Whether or not there is an administrative determination as provided in subsection 2.04.500.A, the violation or failure to comply with the provisions of Sections 2.04.160 through (2.04.290) (regarding campaign reporting), or Section 2.04.370 (regarding contribution limitations) shall constitute an infraction, not subject to the Seattle Criminal Code, for which a monetary fine, not to exceed $5,000, may be assessed by a court, however, a person or entity who violates Section 2.04.370 may be subject to a civil fine of $5,000 or be required to
return the illegal contribution and pay a penalty of two times the amount of the contribution illegally made or accepted, whichever is greater. Violation of the ordinance and existence of an infraction may be proven by a preponderance of the evidence and need not be proven beyond a reasonable doubt. An action seeking to establish the fact of an infraction and imposition of a monetary fine under this section Section 2.04.500 may be commenced by the City Attorney at a request of a majority of the Commission.

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

3.70.100 Powers and duties

The Commission shall have the following powers:

* * *

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

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

Passed by the City Council the ______ day of _________________________, 2019, and signed by me in open session in authentication of its passage this _____ day of _________________________, 2019.

____________________________________
President __________ of the City Council

Approved by me this ______ day of _________________________, 2019.

____________________________________
Jenny A. Durkan, Mayor

Filed by me this ______ day of _________________________, 2019.

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Monica Martinez Simmons, City Clerk

(Seal)