
Council Bill Number: 116526

Ordinance Number: 123011

AN ORDINANCE relating to regulation of solicitation of campaign contributions; amending section 2.04.010 and adding a new section 2.04.380.

Status: Passed

Note: Downtown Commercial Bonus Program Amendments; Downtown Incentive Zoning Program

Vote: 6-2 (Excused: Rasmussen, No: Harrell, McIver)

Date filed with the City Clerk: 2009/06/24

Date of Mayor's signature: 2009/06/16 ([about the signature date](#))

Date introduced/referred to committee: 2009/05/26

Committee: Planning, Land Use and Neighborhoods

Sponsor: BURGESS

Committee Recommendation: Pass

Index Terms: BOARD-OF-ETHICS, ETHICS, ELECTED-OFFICIALS, CAMPAIGN-FUNDING, ELECTIONS, POLITICAL-AND-CIVIC-ACTIVITIES, CITY-EMPLOYEES

Fiscal Note: [Fiscal Note to Council Bill No. 116526](#)

Electronic Copy: [PDF scan of Ordinance No. 123011](#)

Reference: Related: [Clerk File 310025](#)

Text:

AN ORDINANCE relating to regulation of solicitation of campaign contributions; amending section 2.04.010 and adding a new section 2.04.380.

WHEREAS, the City of Seattle regulates and enforces the disclosure of financial activity related to political committees as prescribed in the City's Elections Campaign Code; and

WHEREAS, the City Council strongly believes in the constitutionally protected right of individuals to freely engage in political expression and activity; and

WHEREAS, the City Council is committed to preventing public employees from being pressured or coerced into making financial contributions to political candidates or ballot measures under real or perceived threats of retaliation; and

WHEREAS, the State of Washington already prohibits City officials from soliciting political campaign contributions from employees in the official's agency as stated in RCW 42.17.750; and

WHEREAS, inclusion of this provision in the City's Elections Campaign Code will directly enable the Seattle Ethics and Elections Commission to enforce employee solicitation violations; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new section 2.04.380 is added as follows:

1. Solicitation of contributions by Elected officials, candidates or their agents.

(1) No elected official, candidate, or an official's or candidate's agent may knowingly solicit, directly or indirectly, a contribution to a candidate for public office, political party, or political committee from a City employee or any member of a City board or commission.

2. This section shall not prohibit an Elected Official or a candidate from soliciting contributions from City employees if any of the following conditions apply, and the solicitation does not otherwise violate the provisions of this chapter:

a. the solicitation is part of a general solicitation made to a significant segment of the public which may include, but does not target, City employees;

b. the solicitation is part of a general solicitation made at a gathering that may include, but does not target, City employees;

c. the solicitation is made to a City employee who, subsequent to the effective date of this ordinance, makes an unsolicited contribution to the elected official or candidate for public office, political party, or political committee making the solicitation;

d. the solicitation is made to a City employee who expressly requests to be added to a mailing list from the elected official or candidate for public office, political party, or political committee; and

e. any other similar circumstance as may be prescribed by rule by the Ethics and Elections Commission pursuant to 3.70.100.

3. Nothing in this section prohibits a City employee from making a contribution to an elected Official or candidate, and nothing in this section prohibits an elected Official or candidate from accepting a contribution from a City employee.

Section 2. A new section 2.04.385 is added as follows:

No supervisor employed by the City may solicit a contribution to a candidate for public office, political party, or political committee from any person whom he or she supervises.

Section 3. Section 2.04.010, which was last amended by Ordinance 120831, is amended as follows:

2.04.010 Definitions.

~~1~~: "Administrative Code" means the Administrative Code of the City, Ordinance 102228, as amended.

~~2~~: "Administrator" means the Executive Director of the Ethics and Elections Commission of the City.

~~3~~: "Agency" means all offices, boards, departments, divisions, commissions and similar subdivisions of the City.

~~4~~: "Ballot proposition" means any measure, question, initiative, referendum, recall, or Charter amendment submitted to, or proposed for submission to, the voters of the City.

~~5~~: "Campaign depository" means a bank designated by a candidate or political committee pursuant to Section 2.04.170.

~~6~~: "Campaign treasurer" and "deputy campaign treasurer" mean the individuals appointed by a candidate or political committee, pursuant to Section 2.04.170 to perform the duties specified in this chapter.

~~7~~: "Election cycle" means (a) in the case of a City general election, except as provided in subsection 7(b) below, that period that begins on the first day of May during the year following the previous general election for the office the

~~candidate is seeking and ends on the thirtieth day of April of the year following the general election for the office the candidate is seeking; or (b) in the case of an election to fill an unexpired term, "election cycle" means the period beginning on the earlier of the day the vacancy or the day the impending vacancy is publicly announced and ending five (5) months after the election.~~

8: "Candidate" means any individual who seeks election to the office of Mayor, member of the City Council, or City Attorney of the City, whether or not successfully. An individual shall be deemed to seek election when he or she first:

a. Solicits or receives contributions; or

b. Makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office; or

c. Announces publicly or files for office; or

d. Purchases commercial advertising space or broadcast time to promote his or her candidacy; or

e. Makes expenditures or solicits or receives contributions to explore the possibility of seeking election to City office; or

f. Gives his or her consent to another person to take on behalf of the individual any of the actions in subsections 8a or 8b, 8d or 8e of this section.

9: "Charter" means the Charter of The City of Seattle.

~~10:~~ "City" means The City of Seattle.

~~11:~~ "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public, whether through the use of newspapers, magazines, television or radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

~~12:~~ "Continuing political committee" means a political committee which is an organization of continuing existence not established in anticipation of any particular election.

~~13:~~ "Contribution" means a loan, loan guarantee, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or transfer of anything of value, including personal and professional services, for less than full consideration, but does not include (a) interest on moneys deposited in a political committee's account; (b) ordinary home hospitality; (c) the rendering of legal or accounting services on behalf of a candidate or an authorized political committee but only to the extent that the services are for the purpose of ensuring compliance with City, county or state election or public disclosure laws; (d) the rendering of personal services of the sort commonly performed by volunteer campaign workers; (e) incidental expenses personally incurred by campaign workers not in excess of Twenty-five Dollars (\$25), in the aggregate, during the applicable period, personally paid for by a volunteer campaign worker; or (f) an internal political communication primarily limited to the members of a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization. For purposes of this definition, members are those who (i) regularly pay dues in exchange for benefits from the organization, or (ii) are able to vote, directly or indirectly, for at least one (1) member of the organization's governing board, or (iii) adhere to a code of conduct, the violation of which may subject the members to sanctions that could adversely affect their livelihood, or (iv) participate in the organization's policy-formulating committees. For the purposes of this chapter, contributions other than money or its equivalents shall be deemed to have a money value equivalent to the fair market value of the contribution. Sums paid for tickets to fundraising events such as dinners and parties are contributions; however, the amount of any such contribution may be reduced for the purpose of complying with the reporting requirements of this chapter by the actual cost of consumables furnished in connection with the purchase of such tickets, and only the excess over actual cost of such consumables shall be deemed a contribution. Without limiting the foregoing, the financing by a person of the dissemination, distribution, or publication, in whole or

in part, of broadcast, written graphic, or other form of political advertising prepared or approved by a candidate, a political committee, or the authorized agent of a candidate or political committee is a contribution to the candidate or political committee.

14: "Elected Official" means any person elected at a general or special election to the office of Mayor, member of the City Council, or City Attorney of the City and any person appointed to fill a vacancy in any such office.

15: "Election" includes any primary, general, or special election for public office by the City or any election in which a ballot proposition is submitted to the voters of the City; provided, that an election in which the qualifications for voting include requirements other than those set forth in Article VI, Section 1 (Amendment 63) of the Constitution of the state shall not be considered an election for purposes of this chapter,

16: "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office of the City and any campaign in support of or in opposition to a ballot proposition.

"Election cycle" means (a) in the case of a City general election, except as provided in subsection 7(b) below, that period that begins on the first day of May during the year following the previous general election for the office the candidate is seeking and ends on the thirtieth day of April of the year following the general election for the office the candidate is seeking; or (b) in the case of an election to fill an unexpired term, "election cycle" means the period beginning on the earlier of the day the vacancy or the day the impending vacancy is publicly announced and ending five (5) months after the election.

17: "Expenditure" means a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. "Expenditure" also includes a promise to pay; and a payment or transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For purposes of this chapter, expenditures other than money or its equivalent shall be deemed to have a monetary value equal to the fair market value of the expenditure. "Expenditure" shall not include: (a) the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported, or (b) the value of in-kind labor, or (c) fines or any amounts returned to the election campaign account as a result of any penalties imposed on a candidate for violating this chapter.

18: "Fair Campaign Practices Commission (FCPC)" means the Seattle Ethics and Elections Commission established by Section 3.70.010.

19: "Final report" means the report described as a final report in Section 2.04.250.

20: "In-kind labor" means services provided by a person who volunteers all, or a portion, of his/her time to a candidate's election campaign, and who is not paid by any person for such services.

21: "Independent expenditure" means expenditure on behalf of, or opposing the election of, any candidate, or any City ballot proposition, when such expenditure is made independently of the candidate, his/her political committee, or agent, or of any ballot proposition committee or its officers or agents, and when such expenditure is made without the prior consent, or the collusion, or the cooperation, of the candidate or his/her agent or political committee, or the ballot proposition committee or its officers or agents, and when such expenditure is not a contribution as defined in SMC Section 2.04.010(13). An independent expenditure is made by a person on the earliest of the following events: (a) the person agrees with a vendor or provider of services to make an independent expenditure; or (b) the person incurs the obligation to make an independent expenditure; or (c) the person pays for an independent expenditure.

"Knowledge." A person knows or acts knowingly or with knowledge when:

(i) the person is aware of a fact, facts, or circumstances or result described by an offense in this title; or

(ii) he or she has information that would lead a reasonable person to believe that facts exist, which facts are described by an ordinance defining offense violation of this title.

22: "Person" means an individual, partnership, joint venture, public or private corporation, association, federal, state or local government entity or agency however constituted, candidate, committee, political committee, continuing political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

23: "Political advertising" means any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support in any election campaign.

24: "Political committee" means any person (except a candidate or an individual dealing with his own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

25: "Public Disclosure Commission (PDC)" means the Public Disclosure Commission established by RCW 42.17.350.

26: "Public office" means any elective office of the City.

27: As used in this chapter, the singular shall include the plural and conversely, and any gender, any other, as the context requires.

28: "Commission" means the Seattle Ethics and Elections Commission established by Section 3.70.010.

29: "Officer of a political committee" means the following persons: the treasurer, any person designated by the committee as an officer on the statement of organization filed with the City Clerk, and any person who alone or in conjunction with other persons makes contribution, expenditure, strategic or policy decisions on behalf of the committee.

30: "Applicable period" means the following periods: (a) for a candidate or a candidate's authorized political committee, the election cycle; (b) for a ballot proposition political committee, from the time the campaign activity begins until the end of the period covered by the final report; and (c) for a continuing political committee, a single calendar year.

31: "Sponsor" as used in subsection 2.04.290B 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.

Section 3. This ordinance shall take effect and be in force 30 days from and 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 Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2009, and signed by me in open session in authentication of its passage this

____ day of _____, 2009.

President _____ of the City Council

Approved by me this ____ day of _____, 2009.

Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2009.

City Clerk

(Seal)

Mike Fong/JMS

Campaign Contribution Solicitation Ordinance

June 3, 2009

Version #9 (Amended on June 3, 2009 PLUNC)

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