



SEATTLE CITY COUNCIL

Legislative Summary

CB 119731

Record No.: CB 119731

Type: Ordinance (Ord)

Status: Passed

Version: 2

Ord. no: Ord 126035

In Control: City Clerk

File Created: 12/23/2019

Final Action: 01/17/2020

Title: AN ORDINANCE related to elections; prohibiting foreign-influenced corporations from making independent expenditures or contributing to campaigns and independent expenditure committees; amending Sections 2.04.010, 2.04.260, 2.04.270, 2.04.360, and 2.04.370 of the Seattle Municipal Code (SMC); and adding a new Section 2.04.400 to the SMC.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: González

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Uploaded By: jodee.schwinn@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

Yes

No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	12/31/2019	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
1	Council President's Office	12/31/2019	sent for review	Select Committee on Campaign Finance Reform			
	Action Text: The Council Bill (CB) was sent for review. to the Select Committee on Campaign Finance Reform						
1	City Council	01/06/2020	referred	Select Committee on Campaign Finance Reform			
1	Select Committee on Campaign Finance Reform	01/07/2020	pass				Pass
	Action Text: The Committee recommends that City Council pass the Council Bill (CB).						

In Favor: 6 Chair González , Vice Chair Herbold, Lewis, Morales, Pedersen,
Strauss
Opposed: 0

1 City Council 01/13/2020 passed as amended Pass

Action Text: The Motion carried, the Council Bill (CB) was passed as amended by the following vote, and the President signed the Bill:

Notes: ACTION 1:

Motion was made by Councilmember Herbold, duly seconded and carried, to amend Council Bill 119731, Section 2, as shown in Attachment 1 to the Minutes.

ACTION 2:

Motion was made by Councilmember Herbold, duly seconded and carried, to amend Council Bill 119731, Section 7, by creating a new Seattle Municipal Code Section 2.04.400, Subchapter IV, as shown in Attachment 2 to the Minutes.

ACTION 3:

Motion was made and duly seconded to pass Council Bill 119731 as amended.

In Favor: 7 Councilmember Herbold, Councilmember Juarez, Councilmember Lewis, Councilmember Morales, Councilmember Pedersen, Councilmember Sawant, Councilmember Strauss
Opposed: 0

2 City Clerk 01/16/2020 submitted for Mayor
Mayor's signature
2 Mayor 01/17/2020 Signed
2 Mayor 01/17/2020 returned City Clerk
2 City Clerk 01/17/2020 attested by City Clerk
Action Text: The Ordinance (Ord) was attested by City Clerk.

CITY OF SEATTLE

ORDINANCE 126035

COUNCIL BILL 119731

AN ORDINANCE related to elections; prohibiting foreign-influenced corporations from making independent expenditures or contributing to campaigns and independent expenditure committees; amending Sections 2.04.010, 2.04.260, 2.04.270, 2.04.360, and 2.04.370 of the Seattle Municipal Code (SMC); and adding a new Section 2.04.400 to the SMC.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council makes the following findings of fact:

A. The City of Seattle welcomes immigrants, visitors, and investors from around the world. However, its elections should be decided by the people of Seattle and not by foreign investors or the business entities over which they exert influence.

B. Foreign nationals have used and may continue to use U.S. business entities to funnel funds into U.S. elections, which is in violation of federal laws prohibiting foreign spending in U.S. elections. There are recent instances of intentional and targeted foreign interference in domestic local elections, including in San Diego, where in 2017, a businessman was convicted in federal court of unlawfully funneling foreign funding into local elections through third parties and shell corporations in order to support politicians who might support his real estate development plans; and in New York, where, in 2019, four individuals have been indicted on charges stemming from a scheme in which they laundered foreign money into U.S. elections via shell corporations and straw donors.

C. The U.S. Court of Appeals for the Ninth Circuit has acknowledged the validity of legislation “to protect the country’s political processes after recognizing the susceptibility of the elections process to foreign interference,” including in municipal elections. (*United States v. Singh*, 924 F. 3d 1030, 1043 (2019)).

1 D. The United States government has concluded that the 2016 presidential election was
2 subject to extensive foreign involvement, as set forth in the U.S. Director of National
3 Intelligence’s January 2017 report on “Assessing Russian Activities and Intentions in Recent US
4 Elections” and in Special Counsel Robert Mueller’s “Report on the Investigation into Russian
5 Interference in the 2016 Presidential Election,” publicly released on April 18, 2019.

6 E. The United States government has concluded that Russia, China, Iran, and other
7 foreign actors are engaged in ongoing campaigns to undermine democratic institutions, as set
8 forth in the joint statement “Combating Foreign Influence in U.S. Elections,” issued by the
9 Office of the Director of National Intelligence (ODNI), Department of Justice (DOJ), Federal
10 Bureau of Investigation (FBI), and Department of Homeland Security (DHS) on October 19,
11 2018.

12 F. The FBI has concluded that foreign influenced operations include “criminal efforts to
13 suppress voting and provide illegal campaign financing,” as set forth in FBI Director Christopher
14 Wray’s press briefing on election security on August 2, 2018.

15 G. The United States Congress and the U.S. Supreme Court have recognized the need to
16 protect U.S. elections (including local elections) from foreign influence through the ban on
17 contributions and expenditures by foreign nationals imposed by 52 U.S.C. 30121 and upheld by
18 the Supreme Court in *Bluman v. Federal Election Commission*, 800 F. Supp. 2d 281 (2011).

19 H. It has been affirmed by the Supreme Court that “the United States has a compelling
20 interest... in limiting the participation of foreign citizens in activities of American democratic
21 self-government, and in thereby preventing foreign influence over the U.S. political process.”
22 (*Bluman v. Federal Election Commission*, 8000 F. Supp. 2d 281 (2011), *aff’d* 575 U.S. 1104
23 (2012))

1 I. Current law does not adequately protect against foreign interference through corporate
2 political spending by U.S. corporations with significant foreign ownership, as explained by
3 Federal Election Commissioner Ellen Weintraub in her July 19, 2017, statement “How Our
4 Broken Campaign Finance System Could Allow Foreign Governments to Buy Influence in Our
5 Elections and What We Can Do About It.”

6 J. The U.S. Securities and Exchange Commission, major capital investors, corporate
7 managers, and corporate governance experts broadly agree that ownership or control of one
8 percent or more of shares can confer substantial influence on corporate decision-making.

9 K. Corporations with foreign ownership have been increasingly politically active in
10 recent years, including in local elections in Seattle and around the country.

11 L. Business entities have a fiduciary duty to their shareholders, including shareholders
12 around the world, and generally prioritize the interests of such shareholders, which may diverge
13 substantially from the interests of the citizens of Seattle and of citizens of the United States.

14 M. Political spending by foreign-influenced business entities, even when they are simply
15 acting in the perceived interests of their investors rather than being purposefully used to funnel
16 foreign money into local elections, can weaken, interfere with, or disrupt Seattle’s democratic
17 self-government and the faith that the electorate has in its elected officials.

18 N. To protect the integrity of Seattle’s democratic self-government, it is necessary to
19 prevent foreign-influenced business entities from influencing Seattle elections by spending
20 money in local candidate elections or contributing to independent expenditure committees.

21 Section 2. Section 2.04.010 of the Seattle Municipal Code, last amended by Ordinance
22 124694, is amended as follows:

1 **2.04.010 Definitions**

2 * * *

3 “Candidate” means any individual who seeks election to the office of Mayor, member of
4 the City Council, or City Attorney of the City, whether or not successfully. An individual is
5 deemed to seek election when ~~((he or she))~~ the individual first:

6 1. Solicits or receives contributions; or

7 2. Makes expenditures or reserves space or facilities with intent to promote ~~((his or her))~~
8 the individual’s candidacy for office; or

9 3. Announces publicly or files for office; or

10 4. Purchases commercial advertising space or broadcast time to promote ~~((his or her))~~ the
11 individual’s candidacy; or

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

14 6. Gives ~~((his or her))~~ consent to another person to take on behalf of the individual any of
15 the actions in subsections 1, 2, 4, or 5 of this ~~((section))~~ definition.

16 “Charter” means the Charter of The City of Seattle.

17 “Chief executive officer” means the highest-ranking officer or decision-making
18 individual with authority over a corporation’s affairs.

19 “City” means The City of Seattle.

20 “Commercial advertiser” means any person who sells the service of communicating
21 messages or producing political advertising.

22 “Commission” means the Seattle Ethics and Elections Commission established by
23 Section 3.70.010.

1 “Continuing political committee” means a political committee which is an organization
2 of continuing existence not established in anticipation of any particular election.

3 “Contribution” means a loan, loan guarantee, gift, deposit, subscription, forgiveness of
4 indebtedness, donation, advance, pledge, payment, transfer of funds between political
5 committees, or transfer of anything of value, including personal and professional services, for
6 less than full consideration, but does not include:

7 ~~((a) interest)~~ 1. Interest on moneys deposited in a political committee’s account;

8 ~~((b) ordinary)~~ 2. Ordinary home hospitality;

9 ~~((c) the)~~ 3. The rendering of legal or accounting services on behalf of a candidate or an
10 authorized political committee, but only to the extent that the services are for the purpose of
11 ensuring compliance with City, county, or state election or public disclosure laws;

12 ~~((d) the)~~ 4. The rendering of personal services of the sort commonly performed by
13 volunteer campaign workers;

14 ~~((e) incidental)~~ 5. Incidental expenses personally incurred by campaign workers not in
15 excess of \$25, in the aggregate, during the applicable period, personally paid for by a volunteer
16 campaign worker; or

17 ~~((f) an)~~ 6. An internal political communication primarily limited to the members of a
18 political party organization or political committee, or to the officers, management staff, or
19 stockholders of a corporation or similar enterprise, or to the members of a labor organization or
20 other membership organization. For purposes of this definition, “members” are those who ~~((i))~~
21 (a) regularly pay dues in exchange for benefits from the organization, or ~~((ii))~~ (b) are able to
22 vote, directly or indirectly, for at least one ~~((1))~~ member of the organization’s governing board,
23 or ~~((iii))~~ (c) adhere to a code of conduct, the violation of which may subject the members to

1 sanctions that could adversely affect their livelihood, or ~~((iv))~~ (d) participate in the
2 organization's policy-formulating committees.

3 For the purposes of this ~~((chapter))~~ Chapter 2.04, contributions other than money or its
4 equivalents shall be deemed to have a money value equivalent to the fair market value of the
5 contribution. Sums paid for tickets to fundraising events such as dinners and parties are
6 contributions; however, the amount of any such contribution may be reduced for the purpose of
7 complying with the reporting requirements of this ~~((chapter))~~ Chapter 2.04 by the actual cost of
8 consumables furnished in connection with the purchase of such tickets, and only the excess over
9 actual cost of such consumables shall be deemed a contribution. Without limiting the foregoing,
10 the financing by a person of the dissemination, distribution, or publication, in whole or in part, of
11 broadcast, written graphic, or other form of political advertising prepared or approved by a
12 candidate, a political committee, or the authorized agent of a candidate or political committee is
13 a contribution to the candidate or political committee.

14 "Corporation" means a corporation, company, limited liability company, limited
15 partnership, business trust, business association, or other similar entity.

16 "Elected ~~((Official))~~ official" means any person elected at a general or special election to
17 the office of Mayor, member of the City Council, or City Attorney of the City and any person
18 appointed to fill a vacancy in any such office.

19 * * *

20 "Final report" means the report described as a final report in Section 2.04.375.

21 "Foreign-influenced corporation" means a corporation for which at least one of the
22 following conditions is met:

1 1. A single foreign owner holds, owns, controls, or otherwise has direct or indirect
2 beneficial ownership of one percent or more of the total equity, outstanding voting shares,
3 membership units, or other applicable ownership interests of the corporation;

4 2. Two or more foreign owners, in aggregate, hold, own, control, or otherwise have direct
5 or indirect beneficial ownership of five percent or more of the total equity, outstanding voting
6 shares, membership units, or other applicable ownership interests of the corporation; or

7 3. A foreign owner participates directly or indirectly in the corporation’s decision-making
8 process with respect to the corporation’s political activities in the United States.

9 “Foreign investor” means a person or entity that:

10 1. Holds, owns, controls, or otherwise has direct or indirect beneficial ownership of
11 equity, outstanding voting shares, membership units, or other applicable ownership interests of a
12 corporation; and

13 2. Is a government of a foreign country; a foreign political party; a partnership,
14 association, corporation, organization, or other combination of persons organized under the laws
15 of or having its principal place of business in a foreign country; or an individual who is not a
16 citizen of the United States or a national of the United States and who is not lawfully admitted
17 for permanent residence.

18 “Foreign owner” means (1) a foreign investor; or (2) a corporation wherein a foreign
19 investor holds, owns, controls, or otherwise has directly or indirectly acquired beneficial
20 ownership of equity or voting shares in an amount that is equal to or greater than 50 percent of
21 the total equity or outstanding voting shares.

1 “In-kind labor” means services provided by a person who volunteers all, or a portion, of
2 ~~((his/her))~~ the person’s time to a candidate’s election campaign, and who is not paid by any
3 person for such services.

4 “Independent expenditure” means an expenditure on behalf of ~~((;))~~ or opposing any
5 election campaign, when such expenditure:

6 1. ~~((is))~~ Is made independently of the candidate, ~~((his/her))~~ the candidate’s political
7 committee ~~((;))~~ or agent, or ~~((of))~~ any ballot proposition committee or its officers or agents; ~~((;))~~

8 2. ~~((and when such expenditure is))~~ Is made without the prior consent, or the
9 collusion ~~((;))~~ or ~~((the))~~ cooperation, of the candidate, ~~((or his/her))~~ the candidate’s agent or
10 political committee, or the ballot proposition committee or its officers or agents; ~~((;))~~ and

11 3. ~~((when such expenditure is))~~ Is not a contribution as defined in this Section 2.04.010.

12 An independent expenditure is made by a person on the earliest of the following events:

13 (a) the person agrees with a vendor or provider of services to make an independent expenditure;

14 or (b) the person incurs the obligation to make an independent expenditure; or (c) the person

15 pays for an independent expenditure.

16 “Independent expenditure committee” means any political committee that makes an
17 independent expenditure, or makes contributions to other independent expenditure committees,
18 totaling \$1,000 or more in an election cycle for a City election.

19 “Knowledge.” A person knows or acts knowingly or with knowledge when:

20 1. ~~((the))~~ The person is aware of a fact, facts, or circumstances or result described by an
21 offense in this ~~((title))~~ Title 2; or

1 d. A copy of the certification provided pursuant to subsection 2.04.270.D,
2 by the chief executive officer of any corporation making a contribution, that the corporation is
3 not a foreign-influenced corporation.

4 3. Each loan, promissory note, or security instrument to be used by or for the
5 benefit of the candidate or political committee made by any person, together with the names and
6 addresses of the lender and each person liable directly, indirectly, or contingently and the date
7 and amount of each such loan, promissory note, or security instrument;

8 4. The name and address of each political committee from which the reporting
9 committee or candidate received, or to which that committee or candidate made, any transfer of
10 funds, together with the amounts, dates, and purpose of all such transfers;

11 5. All other contributions not otherwise listed or exempted;

12 6. The name and address of each person to whom one or more expenditures were
13 made in the aggregate amount of more than \$50 during the reporting period, and the amount,
14 date, and purpose of each such expenditure;

15 7. The total sum of expenditures;

16 8. The surplus or deficit of contributions over expenditures;

17 9. The disposition made of any surplus of contributions over expenditures;

18 10. Such other information as the Commission requires by rule adopted pursuant
19 to the Administrative Code in conformance with the policies and purposes of this (~~chapter~~)
20 Chapter 2.04;

21 11. Funds received from a political committee not domiciled in the state and not
22 otherwise required to report under this (~~chapter~~) Chapter 2.04 (a “nonreporting committee”).

23 Such funds shall be returned unless the nonreporting committee files with the City Clerk no later

1 than the tenth day of the month following any month in which a contribution is made a statement
2 disclosing:

- 3 a. The name and address of the nonreporting committee,
 - 4 b. The purposes of the nonreporting committee,
 - 5 c. The names, addresses, and titles of its officers or, if it has no officers,
6 the names, addresses, and titles of its responsible leaders,
 - 7 d. A statement whether the nonreporting committee is a continuing one,
 - 8 e. The name and office sought of each candidate in the City in support of
9 whom the nonreporting committee made an expenditure,
 - 10 f. The City ballot proposition concerning which the nonreporting
11 committee made an expenditure, and whether such committee is in favor of or opposed to such
12 proposition,
 - 13 g. The name and address of each person residing in the state or corporation
14 which has a place of business in the state that has made one or more contributions in the
15 aggregate of more than \$25 to the nonreporting committee during the current calendar year,
16 together with the money value and date of such contributions,
 - 17 h. The name and address of each person in the state to whom an
18 expenditure was made by the nonreporting committee on behalf of a candidate or political
19 committee, the amount, date, and purpose of such expenditure, and the total sum of such
20 expenditures; and
- 21 12. Investments made of campaign funds under Section 2.04.215 and interest
22 dividends and/or other income received.

1 B. The correctness of each report shall be certified as required by all applicable laws and
2 ordinances.

3 Section 4. Section 2.04.270 of the Seattle Municipal Code, last amended by Ordinance
4 124694, is amended as follows:

5 **2.04.270 Independent expenditures; contributions to out-of-state committees—reports ((-))**

6 * * *

7 C. A person with the expectation of making an independent expenditure or expenditures
8 by disseminating an advertising message or messages that the person reasonably expects to be
9 received, read, viewed or heard by 1,000 or more individuals in a single calendar year shall,
10 within two business days after the initial dissemination of the advertisement, deliver a copy of
11 each such advertisement to the offices of the Commission, along with a statement disclosing the
12 method of dissemination of the advertisement and an estimate of the expected quantity of the
13 advertising. This requirement applies only to all independent expenditures that are required to be
14 reported, i.e., an individual spending \$100 or more of ~~((his or her))~~ the individual's own funds
15 and anyone spending any amount of the funds of others. This disclosure does not substitute for
16 the disclosure requirements of other sections of this ~~((chapter))~~ Chapter 2.04.

17 D. Any corporation making an independent expenditure or contributing to an independent
18 expenditure committee shall, within seven business days after making such expenditure or
19 contribution, file with the City Clerk a statement of certification signed by its chief executive
20 officer under penalty of perjury, avowing that after due inquiry, the corporation was not a
21 foreign-influenced corporation on the date such expenditure or contribution was made. The
22 corporation shall also provide a copy of the statement of certification to any independent
23 expenditure committee to which it makes a contribution.

1 Section 5. Section 2.04.360 of the Seattle Municipal Code, last amended by Ordinance
2 116368, is amended as follows:

3 **2.04.360 Application ((-))**

4 Sections 2.04.350 through 2.04.370 (~~and 2.04.400 through 2.04.480~~) apply only to candidates
5 in any primary, general, or special election for the offices of Mayor, City Council, and City
6 Attorney of The City of Seattle.

7 Section 6. Section 2.04.370 of the Seattle Municipal Code, last amended Ordinance
8 125611, is amended as follows:

9 **2.04.370 Mandatory limitations on contributions to candidates**

10 * * *

11 D. No candidate for Mayor, member of the City Council, or City Attorney of the City
12 shall solicit or receive campaign contributions of more than \$500 from any person in any
13 election cycle.

14 E. Contributions from foreign-influenced corporations prohibited

15 1. No candidate for Mayor, member of the City Council, or City Attorney of the
16 City shall solicit or receive campaign contributions from a foreign-influenced corporation.

17 2. Any corporation making a contribution to a candidate for Mayor, member of
18 the City Council, or City Attorney of The City of Seattle shall, within seven business days after
19 making such contribution, file with the City Clerk a statement of certification signed by its chief
20 executive officer under penalty of perjury, avowing that after due inquiry, the corporation was
21 not a foreign-influenced corporation on the date such contribution was made. The corporation
22 shall also provide a copy of the statement of certification to any campaign to which it
23 contributes.

1 ((E)) F. The limitations imposed by this ((section)) Section 2.04.370 shall not apply to:

2 1. A candidate's contributions of ((his or her)) the candidate's own resources to
3 ((his or her)) the candidate's own campaign, or contributions to the candidate's campaign by the
4 candidate or the candidate's spouse or state registered domestic partner of their jointly owned
5 assets;

6 2. Independent expenditures as defined by this Chapter 2.04 except as provided by
7 Section 2.04.400;

8 3. The value of in-kind labor; and

9 4. Contributions consisting of the rendering of clerical or computer services on
10 behalf of a candidate or an authorized political committee, to the extent that the services are for
11 the purpose of ensuring compliance with City, county, or state election or public disclosure laws.

12 ((F)) G. The limitations imposed by this ((section)) Section 2.04.370 shall apply to
13 contributions of the candidate's spouse's or state registered domestic partner's separate property.

14 ((G-)) H. The limitations in this Section 2.04.370 shall be adjusted commencing before
15 the 2019 election cycle, and prior to each election cycle thereafter, by the Commission to
16 account for inflation or deflation using the consumer price index for urban wage earners and
17 clerical workers, CPI-W, or a successor index, for the period since the effective date of this
18 measure or the prior adjustment, as calculated by the United States Department of Labor. The
19 declaration of the Washington State Department of Labor and Industries ((each)) every
20 September 30, regarding the rate by which Washington State's minimum wage rate is to be
21 increased effective the following January 1, shall be the authoritative determination of the rate or
22 percentage of increase or decrease to be adjusted, except that the Commission may round off the
23 new figures to amounts judged most convenient for public understanding.

1 Section 7. A new Section 2.04.400 of the Seattle Municipal Code is added to Subchapter
2 IV of Chapter 2.04 as follows:

3 **2.04.400 Independent expenditures**


4 A. No foreign-influenced corporation shall make an independent expenditure in elections
5 for or against candidates for the offices of Mayor, City Council, or City Attorney of The City of
6 Seattle, nor a contribution to an independent expenditure committee that has conveyed, implicitly
7 or explicitly, that contributions to the committee may be used in elections for or against
8 candidates for the offices of Mayor, City Council, or City Attorney of The City of Seattle.

9 B. An independent expenditure committee may dedicate any contributions that do not
10 comply with the restrictions of Section 2.04.400 for use in elections outside Seattle or for other
11 lawful purposes.


12 Section 8. Severability. If any section, subsection, sentence, clause, phrase, or word of
13 this ordinance, or any application thereof to any person or circumstance, is held to be invalid or
14 unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect
15 the validity of the remaining portions or applications of the ordinance. The City Council hereby
16 declares that it would have passed this ordinance and each and every section, subsection,
17 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to
18 whether any portion of this ordinance or application thereof would be subsequently declared
19 invalid or unconstitutional.

1 Section 9. 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 13th day of January, 2020,
5 and signed by me in open session in authentication of its passage this 13th day of
6 January, 2020.

7 
8 President Pro Tem of the City Council

9 Approved by me this 17th day of January, 2020.

10 
11 Jenny A. Durkan, Mayor

12 Filed by me this 17th day of January, 2020.

13 
14 Monica Martinez Simmons, City Clerk

