

**ORDINANCE NO. 2018-1178**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA ESTABLISHING A BY-DISTRICT ELECTION PROCESS IN FOUR COUNCIL DISTRICTS WHILE CONTINUING WITH AN ELECTIVE OFFICE OF MAYOR PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10010 AND CALIFORNIA GOVERNMENT CODE SECTIONS 34871(C) AND 34886 AND AMENDING IMPERIAL BEACH MUNICIPAL CODE TITLE 2 (ADMINISTRATION AND PERSONNEL) TO PROVIDE FOR CITY COUNCIL ELECTION DISTRICTS**

**WHEREAS**, the City of Imperial Beach currently elects its four City Councilmembers using an at-large election system, and the Mayor is directly elected using an at-large election system; and

**WHEREAS**, in the at-large election system, candidates may reside in any part of the City and each City Councilmember is elected by the voters of the entire City; and

**WHEREAS**, the City's current electoral system observes the guarantees of Section 7 of Article I and Section 2 of Article II of the California Constitution, the Equal Protection Clause of the United States Constitution, and the federal Voting Rights Act; and

**WHEREAS**, in a by-district election system, a candidate for City Council must reside in the district which he or she wishes to represent, and only the voters of that district are entitled to vote to decide who their representative will be; and

**WHEREAS**, on August 6, 2018, the City received a letter from an attorney, Kevin Shenkman, asserting the City's at-large electoral system violated the California Voting Rights Act and threatening litigation if the City declined to adopt by-district elections; and

**WHEREAS**, the letter did not contain any evidence of a violation, but the cost of defending against a claim under the California Voting Rights Act is extremely high, even if the City is successful, and at this time such an expensive defense would severely burden the City's budget and curtail the City's ability to provide needed services to its residents; and

**WHEREAS**, under the provisions of California Government Code sections 34870-34884, a proposal to adopt a by-district method of election in a general law city must ordinarily be submitted to the voters of the city; and

**WHEREAS**, California Government Code section 34886 permits the City Council, to change the City's method of election by ordinance, with certain formalities, to a "by-district" system; and

**WHEREAS**, California Government Code section 34886, as amended effective January 1, 2017, provides:

Notwithstanding Section 34871 or any other law, the legislative body of a city may adopt an ordinance that requires the members of the legislative body to be elected by district or by district with an elective mayor, as described in subdivisions (a) and (c) of Section 34871, without being required to submit the ordinance to the voters for approval. An ordinance adopted pursuant to this section shall include a declaration that the change in the method of electing members of the legislative body is being made in furtherance of the purposes of the California Voting Rights

Act of 2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of the Elections Code); and

**WHEREAS**, California Government Code section 34871(c) provides for the election of members of the legislative body of a city by districts in four districts, with a separately elected mayor; and

**WHEREAS**, the City wishes to avoid litigation and take advantage of the provisions of Government Code section 34886, and therefore, pursuant to California Government Code section 34886, it is declared that the change in the method of electing members of the City Council of the City Imperial Beach made by this Ordinance also implements the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution, as set forth in Elections Code section 14031 of the California Voting Rights Act, and

**WHEREAS**, at its regular meeting on September 19, 2018, the City Council adopted a resolution of intent to establish a by-district voting process pursuant to Elections Code section 10010, Resolution No. 2018-7963; and

**WHEREAS**, under the provisions of California Elections Code section 10010, a political subdivision that changes from an at-large method of election to a by-district method of election shall hold at least two public hearings over a period of no more than thirty days, at which the public is invited to provide input regarding the composition of the districts before drawing a draft map or maps of the proposed boundaries of the districts; and

**WHEREAS**, before any maps of the proposed boundaries of the districts were considered, the City held public hearings on September 25, 2018, and September 26, 2018, at which time input from the public on the proposed composition of the districts was invited and heard; and

**WHEREAS**, on October 10, 2018, consistent with the provisions of California Elections Code section 10010, the City published and made available for public review, 13 draft maps for consideration by the Council, three of which were prepared by the City's demographic consultant, and the rest of which were submitted by members of the public; and

**WHEREAS**, as required by California Elections Code section 10010, the City held a third public hearing on October 17, 2018, at which the public was invited to provide input regarding the content of the draft maps and the potential sequence of elections; and

**WHEREAS**, after the close of the public hearing on October 17, 2018 the City Council provided instruction to the City's demographic consultant about revisions to draft maps, which had been submitted by the City's demographer and members of the public; and

**WHEREAS**, the revised maps were published and made available for public review on October 31, 2018; and

**WHEREAS**, as required by California Elections Code section 10010, the City held a fourth public hearing on November 7, 2018, at which the public was again invited to provide input regarding the content of the draft maps and the potential sequence of elections; and

**WHEREAS**, as required by California Elections Code section 10010, the City held a fifth public hearing on December 5, 2018, at which the public was again invited to provide input prior to the City Council's consideration to adopt the ordinance creating district elections; and

**WHEREAS**, it is the view of the City Council that map "Rose B", attached hereto as Exhibit A, will serve the best interests of the City of Imperial Beach; and

**WHEREAS**, the purpose of this Ordinance is to enact, pursuant to California Government Code section 34886, an ordinance providing for the election of the members of the City Council of the City of Imperial Beach by-district in four (4) single-member districts and continue to have a separately elected office of Mayor.

**NOW, THEREFORE**, the City Council of the City of Imperial Beach, California, does ordain as follows:

Section 1: The above-listed recitals are true and correct, have served as a basis for the findings, and are a substantive part of this Ordinance.

Section 2: Pursuant to California Government Code section 34886, it is declared that the change in the method of electing members of the City Council of the City Imperial Beach made by this Ordinance also implements the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution, as set forth in Elections Code section 14031 of the California Voting Rights Act.

Section 3: The City of Imperial Beach is hereby divided into four (4) Council districts with the boundaries of the districts as shown in Exhibit A, which is attached hereto and incorporated by this reference.

Section 4: Chapter 2.14 "City Council By-District Electoral System" is hereby added to Title 2 "Administration and Personnel" of the Imperial Beach Municipal Code to read as follows:

**"Chapter 2.14 City Council By-District Electoral System**

**2.14.010. By-District Electoral System.**

Pursuant to California Government Code section 34886 and the schedule established in Section 2.14.030 of this Chapter, commencing with the November 2020 general municipal election, the members of the Imperial Beach City Council shall be elected by-districts in four (4) single-member districts. The Mayor shall be separately elected on a City-wide basis. Each Councilmember shall serve a term of four years. The Mayor shall serve a term of four years. The City's by-district electoral system shall be conducted in accordance with California Government Code section 34871(c).

**2.14.020. Establishment of City Council Electoral Districts.**

- A. Pursuant to Section 2.14.010 of this Chapter and beginning with the general municipal election in November 2020, members of the City Council shall be elected on a by-district basis as that term is defined in California Government Code section 34871(c), from the four (4) Council districts as established and amended from time to time by ordinance, and numerically designated as District 1, District 2, District 3, and District 4.
- B. One member of the City Council shall be elected from each electoral district established by this Section and subsequently reapportioned pursuant to applicable State and federal law, by the voters of that district alone, except for the Mayor, who shall be elected City-wide. In accordance with section 2.14.010, each

Councilmember shall serve a four-year term until his or her successor has qualified.

- C. Except as provided in subdivision (D) hereof, the Councilmember elected to represent a district must reside in that district and be a registered voter in that district, and any candidate for City Council must live, and be a registered voter in, the district in which he or she seeks election at the time nomination papers are issued, pursuant to California Government Code section 34882 and Elections Code section 10227. Termination of residency in a district by a Councilmember shall create an immediate vacancy for that Council district unless a substitute residence within the district is established within thirty (30) days after the termination of residency.
- D. Notwithstanding any other provision of this section, each of the Councilmembers in office at the time this Chapter takes effect shall continue in office until the expiration of the full term to which he or she was elected and until his or her successor is qualified. Vacancies in Councilmember offices elected at-large may be filled from the City at-large. At the end of the term of each Councilmember, excluding the separate office of Mayor, that member's successor shall be elected on a by-district basis in the districts established in Subsection A and as subsequently reapportioned as provided by law. A vacancy in a Councilmember office elected by-district shall be filled by a person qualified to hold the office, who is a resident of the district.
- E. Nothing in this section shall affect the election of the Mayor, who shall remain elected on a City-wide basis in accordance with Government Code sections 34871(c) and 34900 *et seq.*

#### **2.14.030. Election Schedule for Councilmembers Elected By-District.**

- A. Consistent with Sections 2.14.010 and 2.14.020, Councilmembers from Council Districts 2 and 4 shall be elected beginning at the General Municipal Election in November 2020, and every four years thereafter, as such Council Districts shall be amended.
- B. Consistent with Sections 2.14.010 and 2.14.020, the Councilmembers from Council Districts 1 and 3 shall be elected beginning at the General Municipal Election in November 2022, and every four years thereafter, as such Council Districts shall be amended.
- C. The election schedule for the Mayor is not affected by this Section.

#### **2.14.040 Map of Council Districts**

The City Clerk shall maintain a map of the City showing the current boundaries and numbers of each city council district as they are established and may be amended from time to time by ordinance of the City Council.

### Section 5: IMPLEMENTATION

If necessary to facilitate the implementation of this Ordinance, the City Manager or his or her designee is authorized to make technical adjustments to the district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or

the residence of elected officials within any district. The City Manager shall consult with the City Attorney concerning any technical adjustments deemed necessary and shall advise the City Council of any such adjustments required in the implementation of the districts.

#### Section 6: ENVIRONMENTAL REVIEW

The City Council finds that the proposed amendments to the Imperial Beach Municipal Code are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) in that it is not a project which has the potential for causing a significant effect on the environment.

#### Section 7: SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Imperial Beach hereby declares that it would have passed this Ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

#### Section 8: INCONSISTENCIES

To the extent the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof.

#### Section 9: INTERPRETATION

In interpreting this Ordinance or resolving any ambiguity, this Ordinance shall be interpreted in a manner that effectively accomplishes its stated purposes.

#### Section 10: CVRA

If the California Voting Rights Act, Elections Code sections 14025 through 14032, as it now exists or may hereafter be amended, is repealed, or declared by a court of competent jurisdiction to be facially unconstitutional, in whole or in part, or unconstitutional, in whole or in part, as applied to the City of Imperial Beach, or is amended such that its provisions no longer apply to the City of Imperial Beach, the City Council reserves its right to review, amend or repeal this Ordinance. In the event this Ordinance is repealed, the incumbent Councilmembers elected pursuant to the provisions of this Ordinance shall complete their terms of office until their successors are qualified, and their successors shall be elected at-large in the order in which the terms of the then-incumbent Councilmembers expire and in accordance with all other provisions of law, until such time as the voters of the City of Imperial Beach shall approve a different method of election for City Councilmembers in accordance with Government Code section 34871, *et seq.*

**EFFECTIVE DATE:** This Ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk of the City of Imperial Beach shall cause this Ordinance to be published pursuant to the provisions of Government Code section 36933.

**INTRODUCED AND FIRST READ** at a regular meeting of the City Council of the City of Imperial Beach, California on the 7<sup>th</sup> day of November 2018; and

**THEREAFTER ADOPTED** at a regular meeting of the City Council of the City of Imperial Beach, California on the 5<sup>th</sup> day of December 2018, by the following vote:

<b>AYES:</b>	<b>COUNCILMEMBERS:</b>	<b>SPRIGGS, PATTON, WEST, DEDINA</b>
<b>NOES:</b>	<b>COUNCILMEMBERS:</b>	<b>NONE</b>
<b>ABSENT:</b>	<b>COUNCILMEMBERS:</b>	<b>BRAGG</b>

Signature on file

\_\_\_\_\_  
**SERGE DEDINA, MAYOR**

**ATTEST:**

Signature on file

\_\_\_\_\_  
**JACQUELINE KELLY, MMC  
CITY CLERK**

**APPROVED AS TO FORM:**

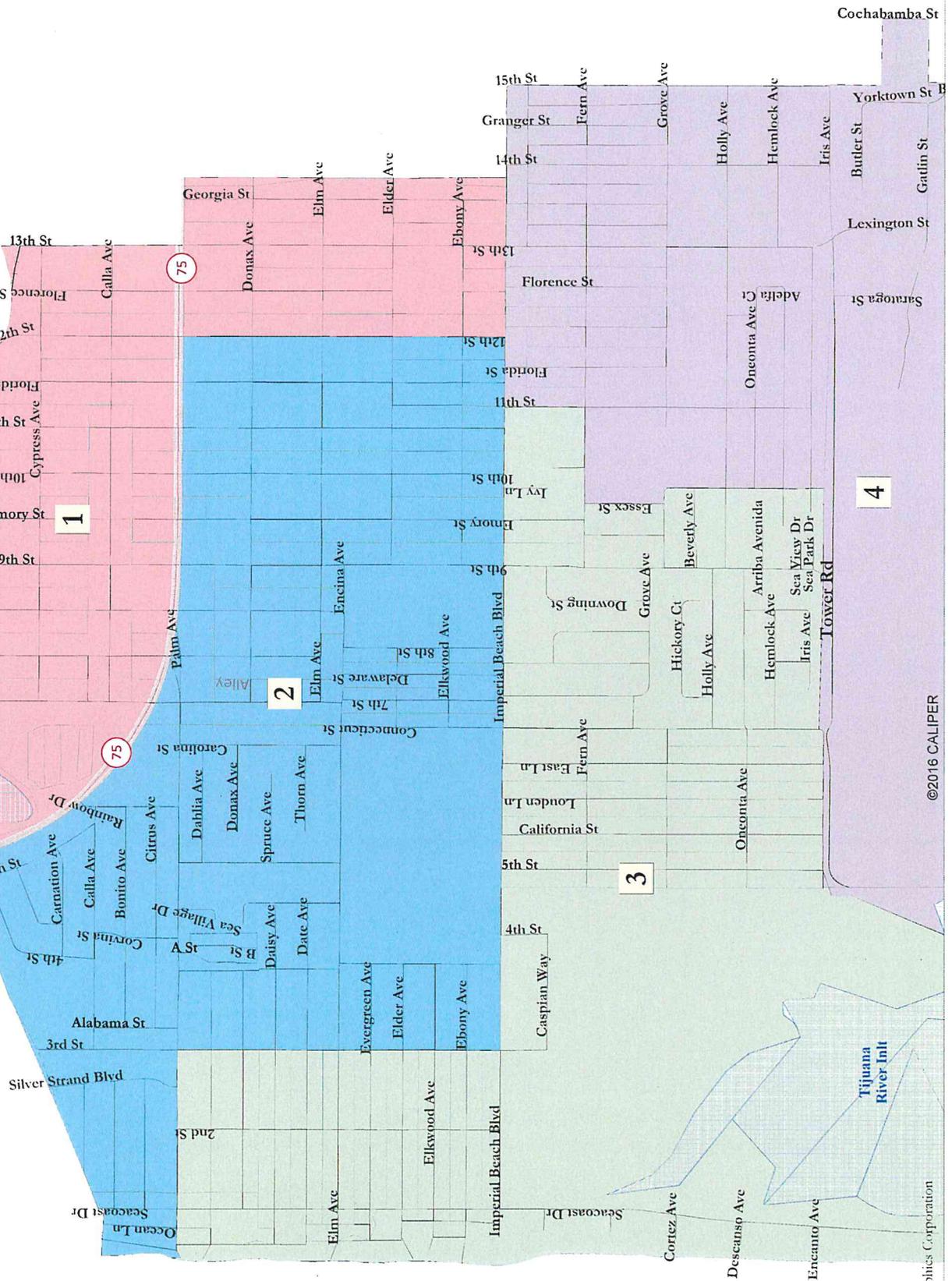
Signature on file

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**JENNIFER M. LYON,  
CITY ATTORNEY**

# City of Imperial Beach Districting 2018

## Rose B

Changes made to "Rose 2" to extend D4 to the south, and to extend D3 slightly farther east.



Proposed  
Election Years:  
2020: 2 & 4  
2022: 1 & 3

- Map layers**
- Rose B
  - Census Block
  - Water Area
  - Railroad
  - River
  - Streets