

ORDINANCE NO. 2024-1242

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, AMENDING THE IMPERIAL BEACH MUNICIPAL CODE TO ADD CHAPTER 2.55 CAMPAIGN REGULATIONS AND CONTRIBUTION LIMITS

WHEREAS, the City Council of Imperial Beach created a limited term and limited purpose ad hoc committee of two Councilmembers to study and facilitate public input on the potential adoption of campaign contribution regulations; and

WHEREAS, the City Council ad hoc committee held four public outreach meetings and gathered input on the community's specific concerns related to campaign contribution regulations and other aspects related to City elections; and

WHEREAS, in order to preserve an orderly political forum in which individuals may express themselves effectively; and

WHEREAS, to place realistic and enforceable limits on the amounts of contributions that may be given to political campaigns in our future City elections; and

WHEREAS, to prevent any undue influence or attempts to develop a broader base of political efficacy in the community by giving large campaign contributions to candidates in local elections; and

WHEREAS, to provide full and fair enforcement of all provisions of this Ordinance; and

WHEREAS, to encourage the public to participate as candidates in elections by simplifying the local regulations; and

WHEREAS, to encourage public awareness and discourage the occurrence of the crimes of vandalism and theft of campaign signs; and violence, harassment, and stalking of candidates; and

WHEREAS, the City Council of Imperial Beach desires to adopt its own local regulations related to campaign contribution limits such that the State default contribution limits found in California Code of Regulations section 18545(a)(9), as it is amended from time to time, will not apply to elections held for City of Imperial Beach offices from and after the effective date of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AS FOLLOWS:

Section 1: The above recitals are true and correct and incorporated herein as findings as though set forth in full.

Section 2. Chapter 2.55 "Campaign Regulations and Contribution Limits" is hereby added to the Imperial Beach Municipal Code to read as found in Exhibit "A" to this Ordinance which is attached hereto and incorporated herein by reference.

Section 3. This Ordinance shall become effective thirty (30) days following its passage and adoption. All provisions of this Ordinance will take effect at that time for any contribution made on or after the effective date of this Ordinance.

Section 4. The City Council of the City of Imperial Beach hereby declares that should any section, paragraph, sentence, phrase, term, or word of this Ordinance, hereby adopted, be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this Ordinance irrespective of any such portion declared invalid.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, held on the 21st day of February 2024, and thereafter

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Imperial Beach, California, held on the 6th day of March 2024 by the following vote:

AYES:	COUNCILMEMBERS:	LEYBA-GONZALEZ, FISHER, SEABURY, MCKAY, AGUIRRE
NOES:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	NONE



PALOMA AGUIRRE, MAYOR

ATTEST:



JACQUELINE M. KELLY, MMC
CITY CLERK

APPROVED AS TO FORM:



JENNIFER M. LYON
CITY ATTORNEY

EXHIBIT A

Chapter 2.55 Campaign Regulations and Contribution Limits

Sections:

2.55.010	Purpose and Scope.
2.55.020	Definitions.
2.55.030	Campaign Statements.
2.55.040	Limitation on Amount of Contributions.
2.55.050	Return of Prohibited Contributions.
2.55.060	Notice Regarding Personal Funds.
2.55.070	Prohibitions.
2.55.080	Appointment of Special Counsel.
2.55.090	Enforcement.
2.55.100	Penalties.
2.55.110	Ethics.
2.55.120	Severability.

2.55.010 Purpose and Scope.

Participation in fair and inclusive elections is the cornerstone to effective local government. The purpose of this chapter is to ensure all candidates and their supporters are provided with rules and guidelines that are clear, unbiased, and objective. Additionally, contribution limits have been established to ensure that qualified candidates have an opportunity to engage in the political process even if they possess different fiscal resources. The ideal is for each candidate to be motivated by community interests without even the appearance of influence from large financial contributors.

The City disavows any illegal behavior with respect to elections and encourages residents to report any activity associated with vandalism, harassment, theft, or stalking to the City's hotline which can be found on the City's website. Vandalism and theft of campaign signs are crimes under state law which will be prosecuted by the District Attorney's Office, or appropriate public official, pursuant to state statutes and penalties. Additionally, assault, harassment, or stalking of a candidate/public official is a crime under state law which will be prosecuted by the District Attorney's Office, or appropriate public official, pursuant to state statutes and penalties. The City will actively communicate public information to discourage any such illegal behavior so that elections can be fair and impartial.

The contents of this chapter are intended to be consistent with and supplement the requirements of California State law and constitutional requirements regarding election protocols. Specifically, the provisions of Article XI, Section 7 of the California Constitution and California Government Code Section 81013 support the finding that municipal elections are municipal affairs; the regulation of campaign contributions and expenditures in municipal elections is not preempted by general state law; and such activity is the proper subject of municipal regulation under the authority granted to cities by the State of California.

2.55.020 Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this subsection:

“Campaign statement” means an itemized report prepared on a form provided by the City Clerk that provides the information required by this chapter.

“Candidate” means an individual listed on the ballot or qualified to receive write-in votes counted by election officials for nomination or election to the position of Mayor or member of the City Council, or who receives a financial contribution or makes an expenditure or gives his or her consent for any other person to receive a contribution or make an expenditure with the intention of bringing about his or her nomination or election to the position of Mayor or member of the City Council, whether or not the specific elective office is known at the time the contribution is received or the expenditure is made and whether or not candidacy has been declared or filed. “Candidate” also includes any Mayor or Councilmember who is the subject of a recall election.

“Closing date” means the date which any report or statement filed under this chapter is required to be complete.

“Committee,” including controlled and independent committees, means any person or combination of persons who directly or indirectly receives contributions or makes expenditures or contributions for the purpose of influencing or attempting to influence the action of voters for or against the nomination or election of one or more candidates for City elective office. For purposes of this chapter, a person or combination of persons becomes a “committee” subject to the regulations of this chapter when such person or combination of persons:

1. Receives, for a City election, campaign contributions totaling \$250.00 or more in a calendar year.
2. Expends for a City election a total of \$250.00 or more in a calendar year.

“Contribution” shall have the meaning set forth in Government Code Section 82015, as amended from time to time, and any related provisions of the California Code of Regulations including but not limited to Title 2, Division 6, Section 18215 of the California Code of Regulations.

“Controlled committee” means a committee controlled directly or indirectly by a candidate or that acts jointly with or in coordination with a candidate or another controlled committee in connection with making expenditures. A candidate controls a committee if the candidate or agent or any other committee the candidate controls has significant influence on the actions or decisions of the committee, or if the committee coordinates its expenditures with the expenditures of a candidate or committee controlled by a candidate, whether or not the candidate is personally aware of the coordination.

“Elected Official” (specific to Imperial Beach) means a member of the City Council, including the Mayor.

“Election” means any City general, special, initiative, referendum or recall election.

“Electronic filing” means use of a system that provides for the online or electronic transfer of data using telecommunications technology that ensures the integrity of the data transmitted and that creates safeguards against efforts to tamper with or subvert the data.

“Entity” means any corporation, company, association, or other organization other than an

individual or a political party.

“Expenditure” shall have the meaning set forth in Government Code Section 82025, as amended from time to time.

“Independent committee” means any committee which receives contributions or makes expenditures for the purpose of influencing or attempting to influence a City election which is neither controlled by a candidate nor coordinates its expenditures with the expenditures of a candidate or a committee controlled by a candidate.

“Individual” means a singular human being.

“Measure” for the purposes of this chapter, means any proposition submitted to a popular vote at a City election.

“Person” means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company corporation, association, or committee (including both controlled and independent committees), labor union, and any other organization or group of persons acting in concert.

“Political party” means any organization qualified to participate in any primary election in the State of California as set forth in California Elections Code Section 5100, or such law as may replace Section 5100.

Unless otherwise provided herein, the definitions, special provisions, and interpretations of the Political Reform Act of 1974, as amended, are to be relied upon in administering this chapter. The requirements of this chapter are in addition to and shall not be administered or interpreted to be in conflict with, the requirements of the Political Reform Act of 1974.

2.55.030 Campaign Statements.

A. Each candidate, each treasurer of a committee supporting or opposing a candidate, and each treasurer of a committee supporting or opposing a measure shall prepare an itemized statement of campaign contributions received and campaign expenditures made. The statutory provisions of the Political Reform Act of 1974 and the Elections Code Section 11500 et seq. shall be complied with.

B. Campaign statement forms shall be provided by the City Clerk and campaign statements shall be filed with the City Clerk in accordance with the deadlines established by the Political Reform Act of 1974.

C. The City Clerk shall ensure that all campaign statements, filed with the City in accordance with this chapter, are retained and available for public review at City Hall, in accordance with law. Also, the City Clerk shall ensure that copies of the campaign statements are available for public review online on the City’s website and shall remain there for no less than six months following the related election.

D. Any elected officer, candidate, committee, or other person required to file statements, reports or other documents (“statements”) as required by Chapter 4 of the Political Reform Act (California Government Code Section 84100 et seq.) (“filers”) will file such statements using the City Clerk’s online system according to procedures established by the City Clerk and Chapter 2.58 of this code.

E. Any independent expenditure reports filed with the City shall be limited to only the City of Imperial Beach candidates or ballot measures that they are supporting or opposing.

2.55.040 Limitation on Amount of Contribution.

A. No individual, person, committee, entity, or political party shall make one or more contributions with a total value of more than \$250.00, per election, to:

1. The same candidate for Mayor;
2. The same candidate for City Council; or
3. The same controlled committee of a candidate for Mayor or City Council.

B. This section does not apply to a candidate's contribution of personal funds to his or her own campaign contribution account or prohibit a controlled committee or political party from conveying to a candidate any monies legally received as contributions. The contribution limitation of this section is not a limitation upon expenditures and shall not limit the expenditures by any candidate, person, or committee.

C. Spouses are two separate individuals for purposes of the contribution limitations of this section.

2.55.050 Return of Prohibited Contributions.

If a contribution is tendered and would be in violation of this chapter, it shall be returned by the candidate to the contributor within 60 days of receipt by the candidate.

2.55.060 Notice Regarding Personal Funds.

If a candidate contributes personal funds to his or her own campaign contribution account of more than \$5,000 aggregate, in connection with a campaign for a single election, a candidate shall do all of the following:

A. Prior to contributing the personal funds, the candidate shall provide written notice of the candidate's intent to contribute more than \$5,000 of personal funds to the City Clerk and all opponent candidates. The notice shall be delivered personally or sent by registered mail to the last known address of the opponent candidates as shown in the records of the City Clerk and shall specify the amount of personal funds intended to be contributed. The notice shall also provide the date the personal funds shall be deposited into the candidate's campaign contribution account. Separate notice is also required for every separate deposit of personal funds of any amount that is a contribution from a candidate to his or her campaign once the candidate has contributed more than \$5,000 in personal funds in connection with the campaign for a single election contest.

B. The required notice shall be given no later than 21 days prior to the election, unless the contribution occurs during the 21 days preceding the election, in which case the required notice shall be provided 24 hours prior to deposit into the candidate's campaign contribution account.

2.55.070 Prohibitions.

A. It is unlawful for any contributor to make, knowingly or willfully, a contribution which is prohibited by this chapter.

B. It is unlawful for any candidate, agent for a candidate, committee, or agent for a committee to solicit, knowingly or willfully, a contribution which is prohibited by this chapter.

C. It shall be unlawful for any candidate, agent for a candidate, committee, or agent for a committee to accept, knowingly or willfully, a campaign contribution which is prohibited by this chapter.

D. It is unlawful for any person to aid, abet, advise or participate in, knowingly or willfully, a violation of this chapter.

E. No committee shall make any expenditures to influence or attempt to influence the voters in a City election if such committee has not complied with the contribution limitations imposed by this chapter upon such committee's receipt of funds.

2.55.080 Appointment of Special Counsel.

A. At least 90 days prior to a City election, the City Council shall appoint a special counsel for that election and such additional special counsel as may be required, on such terms and conditions as the City Council deems appropriate.

B. The special counsel shall be the District Attorney, the Attorney General, or such other qualified and independent special counsel or combination of the foregoing as may be appointed by the City Council.

2.55.090 Enforcement.

A. The City's review and investigation of complaints of alleged violations of this chapter shall be commenced and carried out only by an appointed special counsel. If the special counsel determines that there is a reason to believe that a violation of this chapter has occurred, special counsel shall conduct an investigation as it deems necessary for the enforcement of this chapter. The special counsel shall have such investigative powers as are necessary for the performance of duties described in this chapter and may demand and shall be furnished records of campaign contributions and expenditures of any person or committee subject to this chapter. In the event production of records is refused, the special counsel may commence civil litigation to complete the production.

B. Persons residing in the City who believe that a violation of this chapter has occurred may file a written complaint for review by the special counsel. If the complaint presents probable cause to believe that a violation has occurred, the special counsel will initiate an investigation of such violation.

C. Review, investigation, enforcement, litigation, and prosecution under this chapter shall be commenced and carried out only by an appointed special counsel. If the special counsel determines that there is good reason to believe that a violation of this chapter has occurred, special counsel may commence such administrative, civil, or criminal legal action as it deems necessary for the enforcement of this chapter.

D. Activity by special counsel in accordance with this chapter shall not be subject to review or control by the City Council or City Attorney. The City Attorney shall not review, investigate, prosecute or otherwise deal with any alleged violation of this chapter, but may defend the constitutionality and legality of this chapter in any civil proceeding in which the City or the City Council is a party.

E. Any action alleging a violation of this chapter must be commenced no later than six months from the date of the related election.

2.55.100 Penalties.

A. Any person who knowingly or willfully violates any provision of this chapter is guilty of a misdemeanor.

B. Any person who violates any provision of this chapter shall be liable in a civil action for damages in the amount of \$1,000 per violation. In addition, such person shall be liable for the reasonable attorney's fees and costs incurred by the City in any civil proceeding filed to enforce the provisions of this chapter. Upon collection, the monies shall be deposited into the general fund of the City, earmarked to be used for the purpose of defraying the costs of municipal elections, including but not limited to enforcement of this chapter.

2.55.110 Ethics.

The City Clerk will include a copy of this chapter and a Code of Fair Campaign Practices Statement in the candidate campaign materials.

2.55.120 Severability.

If any provision of this chapter, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this chapter to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this chapter are severable.