



98009

DATE: August 13, 2019

TO: Board of Supervisors

FROM: James R. Williams, County Counsel
Jeffrey V. Smith, County Executive

SUBJECT: Ordinance relating to Use of the Official Seals of the County and Board of Supervisors

RECOMMENDED ACTION

Adoption of Ordinance No. NS-300.937 adding Division B39 of the Santa Clara County Ordinance Code relating to use of the Official Seals of the County of Santa Clara and of the Board of Supervisors.

- Action to Introduce and Preliminarily adopt on August 13, 2019; Roll Call Vote to waive reading, Roll Call Vote to adopt.
- Action for Final Adoption on August 27, 2019; Roll Call Vote to adopt.

FISCAL IMPLICATIONS

There is no impact to the County General Fund from the recommended action.

REASONS FOR RECOMMENDATION

The proposed Ordinance adds a new Division B39 to the County of Santa Clara Ordinance Code to address the use and potential misuse of the official seals of the County and Board of Supervisors (“Board”). While the Board has previously adopted Division A36 governing use of the County logo for commercial marketing (“Commercial Marketing Ordinance”), there is no comparable provision governing use of the County seal by third-party entities for non-commercial purposes. An ordinance regulating use of the County seal for non-commercial use is in the interest of the County to ensure that the seal is not used inappropriately. The proposed Ordinance relating to the use of the Official Seals of the County and Board of Supervisors (“Seal Ordinance”) is consistent with how other jurisdictions regulate seals.

The Seal Ordinance codifies the County’s practice that the County seal may be used by the County and County departments and agencies for official business of the County. In addition, only the Board or the County Executive may authorize other persons or entities to use the County seal for non-commercial purposes. Commercial uses of the County seal would be governed by the Commercial Marketing Ordinance. The Office of the County

Counsel has prepared a proposed ordinance amending Division A36 to refer expressly to the County seal and to make other technical corrections. Please refer to linked Legislative File No. 96956 for that ordinance and a redline showing the amendments.

The Seal Ordinance addresses use of the Board seal in a manner similar to the use of the County seal. The Ordinance provides that the Board seal may be used by the Board, Board Members, the County Executive, and the Clerk of the Board for official business of the Board and only those officials may authorize other non-commercial uses. Commercial uses of the Board seal would be prohibited by the Seal Ordinance.

The Board may in the future wish to adopt a policy governing the scope of authorization of use of the County and/or Board seals.

The Seal Ordinance has express prohibitions on the use of the seals that are consistent with restrictions in California law and the First Amendment. The ordinance prohibits use of the seals for the endorsement or disapproval of religion or for religious purposes. The Seal Ordinance's prohibition on use of the seals for "campaign purposes or events" is based on California laws that restrict the use of County funds or resources. Specifically, the Seal Ordinance prohibits the use of the seals for "campaign purposes or events that influence or attempt to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure." Notwithstanding these restrictions, the Seal Ordinance does provide that Board Members may use the Board seal if the seal is used solely as a means of identification in a context that makes clear that the material bearing the seal is not an official statement of the Board of Supervisors.

The Seal Ordinance makes all unauthorized use of the seals an infraction subject to administrative fines and enables the County Executive and County Counsel to enforce against violations. The Seal Ordinance also allows the County Counsel to bring civil actions for violations.

CHILD IMPACT

The recommended action will have no/neutral impact on children.

SENIOR IMPACT

The recommended action will have no/neutral impact on seniors.

SUSTAINABILITY IMPLICATIONS

The recommended action will have no/neutral sustainability implications.

BACKGROUND

The Board has previously adopted the County and Board seals, which are used for official business of the County and the Board. The Commercial Marketing Ordinance governs commercial use of the County logo, but the County does not have an ordinance governing non-commercial uses of the County and Board seal by third-party entities.

Since 2017, the Board has periodically considered a recommendation from Administration for a Board policy governing donations of County resources to nonprofit organizations and government entities and sponsorship of events by these entities.

At the January 15, 2019 Board meeting (Item No. 70), the Board requested the donation policy return to the Board for consideration.

Through the development of the donation policy, it became apparent that it would be prudent for the County to adopt an ordinance that regulates use of the County seal for non-commercial purposes.

CONSEQUENCES OF NEGATIVE ACTION

The County will not adopt the amendments to the Seal Ordinance and the County would have no mechanism to enforce misuse of the seal for non-commercial purposes.

STEPS FOLLOWING APPROVAL

The Clerk of the Board shall process the Ordinance Code update, and notify Kim Forrester in the Office of the County Counsel.

LINKS:

- Replaces: 96955 : Adoption of Ordinance No. NS-300.937 adding Division B39 of the Santa Clara County Ordinance Code relating to use of the Official Seals of the County of Santa Clara and of the Board of Supervisors.
[June 4, 2019 Board Mtg., Item 82]

ATTACHMENTS:

- Ordinance NS-300.937 relating to Use of Official Seals (revised for 08/13/19 Board meeting) (PDF)