



CITY OF NORMAN, OK CITY COUNCIL SPECIAL MEETING

Municipal Building, Council Chambers, 201 West Gray, Norman, OK 73069
Tuesday, November 09, 2021 at 5:00 PM

AGENDA

It is the policy of the City of Norman that no person or groups of persons shall on the grounds of race, color, religion, ancestry, national origin, age, place of birth, sex, sexual orientation, gender identity or expression, familial status, marital status, including marriage to a person of the same sex, disability, retaliation, or genetic information, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in employment activities or in all programs, services, or activities administered by the City, its recipients, sub-recipients, and contractors. In the event of any comments, complaints, modifications, accommodations, alternative formats, and auxiliary aids and services regarding accessibility or inclusion, please contact the ADA Technician at 405-366-5424, Relay Service: 711. To better serve you, five (5) business days' advance notice is preferred.

CALL TO ORDER

AGENDA ITEMS

1. DISCUSSION REGARDING THE USE OF CONSENSUAL, AUTHORIZED ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS THAT COMPLY WITH THE REQUIREMENTS OF THE OKLAHOMA UNIFORM ELECTRONIC TRANSACTION ACT AND CITY POLICY IN CITY TRANSACTIONS AND COMMUNICATIONS.
2. CONSIDERATION OF ADJOURNING INTO AN EXECUTIVE SESSION AS AUTHORIZED BY OKLAHOMA STATUTES, TITLE 25 § 307(B)(3) TO DISCUSS THE ACQUISITION OF REAL PROPERTY IN CONNECTION WITH THE GROUNDWATER BLENDING PROJECT.

Motion to adjourn out of the Special Session and convene into an Executive Session.

Motion to adjourn out of the Executive Session and reconvene the Special Session.

ADJOURNMENT



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 11/09/2021

REQUESTER: Kathryn Walker, City Attorney

PRESENTER: Heather Poole, Assistant City Attorney

ITEM TITLE: DISCUSSION REGARDING THE USE OF CONSENSUAL, AUTHORIZED ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS THAT COMPLY WITH THE REQUIREMENTS OF THE OKLAHOMA UNIFORM ELECTRONIC TRANSACTION ACT AND CITY POLICY IN CITY TRANSACTIONS AND COMMUNICATIONS.

BACKGROUND:

The City of Norman is receiving numerous forms and documents that have been signed and the document scanned rather than receiving a document with an original “wet” signature. The benefits of electronic signatures are simple and numerous: they cut down on the paper, time, and cost associated with transmitting and approving physical documents, and they can offer an easily accessible audit trail of when documents were modified and when they were signed. The Electronic Signatures in Global and National Commerce Act (E-Sign Act), 15 U.S.C., Section 7001 et seq. was signed into law in June 2000 and many states, including Oklahoma, passed similar laws based on the federal legislation.

DISCUSSION:

Oklahoma’s Uniform Electronic Transactions Act, Title 12A O.S. Art. 15, also enacted in 2000, covers all electronic records and electronic signatures relating to a transaction. This Act only applies to transactions related to business, commercial (including consumer) and governmental matters. Electronic signatures cannot be accepted for wills, codicils or testamentary trusts, items covered by the consumer protection laws of Oklahoma, and transactions covered by the Uniform Commercial Code except those relating to leases, contracts, sales of goods and other areas covered under Title 12 A O.S. Articles 2 and 2A.

This Act applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored. Title 12A O.S. §15-104. This Act applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. 12A O.S. §15-105 (b). A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means.

An “electronic signature” is defined as: “an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.” 12A O.S. § 15-102(10).

Other Oklahoma Statutes have already adopted the explicit acceptance of electronic signatures. 11 O.S. §28-113.1(B) covers municipal courts of record and specifically states that “As used in this section, the term ‘signature’ shall include a digital or electronic signature, as defined in Section 15-102 of Title 12A of the Oklahoma Statutes.” The exact same language is found in 22 O.S. §1115.1A(H) which covers State and Municipal Traffic Bail Bond Procedures.

In addition, the Oklahoma adoption of the Uniform Electronic Transactions Act states: “(a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form. (b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation. (c) If a law requires a record to be in writing, an electronic record satisfies the law. (d) If a law requires a signature, an electronic signature satisfies the law.” 12A O.S. §15-107.

Finally, 12A O.S. §15-117 allows “each government agency of this state, in cooperation with the Archives and Records Commission, to determine whether, and the extent to which, it will create and retain electronic records.” 12 A O.S. §15-118 specifies that “each governmental agency of this state shall determine whether, and the extent to which, it will send and accept electronic records and signatures to and from other persons and otherwise create, generate, communicate, store, processes, use, and rely upon electronic records and signatures.” Municipalities are included under the definition of “government agency”. 12A O.S. §15-102

12A O.S. §15-111 states that “[I]f a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts.... Is attached to or logically associated with the signature or record.” This allows documents that require a notary acknowledgment to also be received electronically.

Transactions that cannot be conducted by electronic signature (wills, trusts, etc.) are not conducted by municipalities and thus do not have to be specifically excluded from the City’s ordinance.

RECOMMENDATION:

Staff recommends approval of Ordinance O-2122-26 to allow the use of consensual, authorized electronic signature and electronic records that comply with the requirements of the Oklahoma Uniform Electronic Transaction Act and City policy in City transactions and communications.

Ordinance O-2122-26

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, ADDING ARTICLE VI TO CHAPTER 2 OF THE CODE OF THE CITY OF NORMAN TO ALLOW THE USE OF CONSENSUAL, AUTHORIZED ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS THAT COMPLY WITH THE REQUIREMENTS OF THE OKLAHOMA UNIFORM ELECTRONIC TRANSACTION ACT AND CITY POLICY IN CITY TRANSACTIONS AND COMMUNICATIONS; AND PROVIDING FOR THE SEVERABILITY THEREOF.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 1. THAT Article VI of Chapter 2 of the Code of Ordinances of the City of Norman shall be added to read as follows:

Sec. 6-101. Definitions.

Unless otherwise stated in this article, the terms defined in the Oklahoma Uniform Electronic Transactions Act (“OUETA”) (12A O.S., Section 15-101 et seq.) apply.

Sec. 6-102. Scope.

- (a) The City of Norman may utilize and accept all electronic signatures (“e-signatures”) and electronic records (“e-records”) that comply with the requirements of the OUETA, City of Norman administrative policies and procedures, and other applicable state and federal laws.
- (b) The use of e-signatures and e-records is acceptable for:
 - (1) Any transaction or communication with the City of Norman where both parties have agreed to conduct the transaction or communication electronically;
 - (2) Any City of Norman policies, laws, regulations, and rules that require a signature or written record;
 - (3) Any other situation where the OUETA, City of Norman’s administrative policies and procedures, and other applicable state and federal law allow the use of e-signatures and e-records.

Sec. 6-103. Purpose

This section is intended to enable the City of Norman to use e-signatures and e-records to the fullest extent allowed by law and the City of Norman’s administrative policies and procedures.

Sec. 6-104. Limitations.

- (a) Use of e-signatures and e-records must be consistent with the City of Norman’s administrative policies and procedures, which may be designated and amended at any time by the City Manager or the City Manager’s designee.
- (b) Use of e-signatures and e-records by the City of Norman or its agents that is not consistent with this section and City of Norman’s administrative policies and procedures will render such contract, record, or other document invalid as not fully and properly executed by the City of Norman.
- (c) Authority to sign or execute contracts, records, or other documents via e-signature may be delegated by the City Manager and other city department heads to designated city staff members. Delegation of e-signature authority must be memorialized in writing, including, but not limited to, memorandum, city form, e-mail, or a delegation process recorded within e-signature software.
- (d) Any unauthorized electronic signing of any contract, record, or other document, will render such contract, record, or other document invalid as not fully and properly executed by the City of Norman.

§ 2. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED this _____ day
of _____, 2021.

NOT ADOPTED this _____ day
of _____, 2021.

(Mayor)

(Mayor)

ATTEST:

(City Clerk)

Ordinance O-2122-26

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- (b) Use of e-signatures and e-records by the City of Norman or its agents that is not consistent with this section and City of Norman’s administrative policies and procedures will render such contract, record, or other document invalid as not fully and properly executed by the City of Norman.
- (c) Authority to sign or execute contracts, records, or other documents via e-signature may be delegated by the City Manager and other city department heads to designated city staff members. Delegation of e-signature authority must be memorialized in writing, including, but not limited to, memorandum, city form, e-mail, or a delegation process recorded within e-signature software.
- (d) Any unauthorized electronic signing of any contract, record, or other document, will render such contract, record, or other document invalid as not fully and properly executed by the City of Norman.

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ADOPTED this _____ day
of _____, 2021.

NOT ADOPTED this _____ day
of _____, 2021.

(Mayor)

(Mayor)

ATTEST:

(City Clerk)



Oklahoma Statutes Citationized
Title 12A. Uniform Commercial Code
Article 15 - Uniform Electronic Transactions Act
Section 15-101 - Short Title

Cite as: O.S. §, ___

This act shall be known and may be cited as the "Uniform Electronic Transactions Act".

Historical Data

Laws 2000, SB 1598, c. 372, § 1, eff. November 1, 2000.

U.S. Code Title 15 CHAPTER 96 SUBCHAPTER I § 7001

15 U.S. Code § 7001 - General rule of validity

(a) In general

Notwithstanding any statute, regulation, or other rule of law (other than this subchapter and subchapter II), with respect to any transaction in or affecting interstate or foreign commerce—

(1) a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form; and

(2) a contract relating to such transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation.

(b) Preservation of rights and obligations

This subchapter does not—

(1) limit, alter, or otherwise affect any requirement imposed by a statute, regulation, or rule of law relating to the rights and obligations of persons under such statute, regulation, or rule of law other than a requirement that contracts or other records be written, signed, or in nonelectronic form; or

(2) require any person to agree to use or accept electronic records or electronic signatures, other than a governmental agency with respect to a record other than a contract to which it is a party.

(c) Consumer disclosures

(1) Consent to electronic records

Notwithstanding subsection (a), if a statute, regulation, or other rule of law requires that information relating to a transaction or transactions in or affecting interstate or foreign commerce be provided or made available to a consumer in writing, the use of an electronic record to provide or make available (whichever is required) such information satisfies the requirement that such information be in writing if—

(A) the consumer has affirmatively consented to such use and has not withdrawn such consent;

(B) the consumer, prior to consenting, is provided with a clear and conspicuous statement—

(i) informing the consumer of (I) any right or option of the consumer to have the record provided or made available on paper or in nonelectronic form, and (II) the right of the consumer to withdraw the consent to have the record provided or made available in an electronic form and of any conditions, consequences (which may include termination of the parties' relationship), or fees in the event of such withdrawal;

(ii) informing the consumer of whether the consent applies (I) only to the particular transaction which gave rise to the obligation to provide the record, or (II) to identified categories of records that may be provided or made available during the course of the parties' relationship;

(iii) describing the procedures the consumer must use to withdraw consent as provided in clause (i) and to update information needed to contact the consumer electronically; and

(iv) informing the consumer (I) how, after the consent, the consumer may, upon request, obtain a paper copy of an electronic record, and (II) whether any fee will be charged for such copy;

(C) the consumer—

(i) prior to consenting, is provided with a statement of the hardware and software requirements for access to and retention of the electronic records; and

(ii) consents electronically, or confirms his or her consent electronically, in a manner that reasonably demonstrates that the consumer can access information in the electronic form that will be used to provide the information that is the subject of the consent; and

(D) after the consent of a consumer in accordance with subparagraph (A), if a change in the hardware or software requirements needed to access or retain electronic records creates a material risk that the consumer will not be able to access or retain a subsequent electronic record that was the subject of the consent, the person providing the electronic record—

(i) provides the consumer with a statement of (I) the revised hardware and software requirements for access to and retention of the electronic records, and (II) the right to withdraw consent without the imposition of any fees for such withdrawal and without the imposition of any condition or consequence that was not disclosed under subparagraph (B)(i); and

(ii) again complies with subparagraph (C).

(2) Other rights

(A) Preservation of consumer protections

Nothing in this subchapter affects the content or timing of any disclosure or other record required to be provided or made available to any consumer under any statute, regulation, or other rule of law.

(B) Verification or acknowledgment

If a law that was enacted prior to this chapter expressly requires a record to be provided or made available by a specified method that requires verification or acknowledgment of receipt, the record may be provided or made available electronically only if the method used provides verification or acknowledgment of receipt (whichever is required).

(3) Effect of failure to obtain electronic consent or confirmation of consent

The legal effectiveness, validity, or enforceability of any contract executed by a consumer shall not be denied solely because of the failure to obtain electronic consent or confirmation of consent by that consumer in accordance with paragraph (1)(C)(ii).

(4) Prospective effect

Withdrawal of consent by a consumer shall not affect the legal effectiveness, validity, or enforceability of electronic records provided or made available to that consumer in accordance with paragraph (1) prior to implementation of the consumer's withdrawal of consent. A consumer's withdrawal of consent shall be effective within a reasonable period of time after receipt of the withdrawal by the provider of

the record. Failure to comply with paragraph (1)(D) may, at the election of the consumer, be treated as a withdrawal of consent for purposes of this paragraph.

(5)Prior consent

This subsection does not apply to any records that are provided or made available to a consumer who has consented prior to the effective date of this subchapter to receive such records in electronic form as permitted by any statute, regulation, or other rule of law.

(6)Oral communications

An oral communication or a recording of an oral communication shall not qualify as an electronic record for purposes of this subsection except as otherwise provided under applicable law.

(d)Retention of contracts and records

(1)Accuracy and accessibility

If a statute, regulation, or other rule of law requires that a contract or other record relating to a transaction in or affecting interstate or foreign commerce be retained, that requirement is met by retaining an electronic record of the information in the contract or other record that—

(A)accurately reflects the information set forth in the contract or other record; and

(B)remains accessible to all persons who are entitled to access by statute, regulation, or rule of law, for the period required by such statute, regulation, or rule of law, in a form that is capable of being accurately reproduced for later reference, whether by transmission, printing, or otherwise.

(2)Exception

A requirement to retain a contract or other record in accordance with paragraph (1) does not apply to any information whose sole purpose is to enable the contract or other record to be sent, communicated, or received.

(3)Originals

If a statute, regulation, or other rule of law requires a contract or other record relating to a transaction in or affecting interstate or foreign commerce to be provided, available, or retained in its original form, or provides consequences if the contract or other record is not provided, available, or retained in its original form, that statute, regulation, or rule of law is satisfied by an electronic record that complies with paragraph (1).

(4)Checks

If a statute, regulation, or other rule of law requires the retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with paragraph (1).

(e)Accuracy and ability to retain contracts and other records

Notwithstanding subsection (a), if a statute, regulation, or other rule of law requires that a contract or other record relating to a transaction in or affecting interstate or foreign commerce be in writing, the

legal effect, validity, or enforceability of an electronic record of such contract or other record may be denied if such electronic record is not in a form that is capable of being retained and accurately reproduced for later reference by all parties or persons who are entitled to retain the contract or other record.

(f) Proximity

Nothing in this subchapter affects the proximity required by any statute, regulation, or other rule of law with respect to any warning, notice, disclosure, or other record required to be posted, displayed, or publicly affixed.

(g) Notarization and acknowledgment

If a statute, regulation, or other rule of law requires a signature or record relating to a transaction in or affecting interstate or foreign commerce to be notarized, acknowledged, verified, or made under oath, that requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable statute, regulation, or rule of law, is attached to or logically associated with the signature or record.

(h) Electronic agents

A contract or other record relating to a transaction in or affecting interstate or foreign commerce may not be denied legal effect, validity, or enforceability solely because its formation, creation, or delivery involved the action of one or more electronic agents so long as the action of any such electronic agent is legally attributable to the person to be bound.

(i) Insurance

It is the specific intent of the Congress that this subchapter and subchapter II apply to the business of insurance.

(j) Insurance agents and brokers

An insurance agent or broker acting under the direction of a party that enters into a contract by means of an electronic record or electronic signature may not be held liable for any deficiency in the electronic procedures agreed to by the parties under that contract if—

- (1) the agent or broker has not engaged in negligent, reckless, or intentional tortious conduct;
- (2) the agent or broker was not involved in the development or establishment of such electronic procedures; and
- (3) the agent or broker did not deviate from such procedures.

(Pub. L. 106–229, title I, § 101, June 30, 2000, 114 Stat. 464.)



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 11/07/2021

REQUESTER: Kathryn Walker, City Attorney

PRESENTER: Chris Mattingly, Director of Utilities

ITEM TITLE: CONSIDERATION OF ADJOURNING INTO AN EXECUTIVE SESSION AS AUTHORIZED BY OKLAHOMA STATUTES, TITLE 25 § 307(B)(3) TO DISCUSS THE ACQUISITION OF REAL PROPERTY IN CONNECTION WITH THE GROUNDWATER BLENDING PROJECT.

Motion to adjourn out of the Special Session and convene into an Executive Session.

Motion to adjourn out of the Executive Session and reconvene the Special Session.

INFORMATION

Pursuant to 25 O.S., Section 307(B)(3), a public body is permitted to conduct an executive session to discuss the purchase or appraisal of real property. Thereupon, this item is submitted for City Council's consideration.