

ORDINANCE 1050

ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES POLICY

BE IT ORDAINED by the Mayor and City Council of the City of Bay Minette, Alabama adopts the Electronic Records and Electronic Signature Policy as follows:

Section 1.

Purpose

The purpose of this Electronic Records and Electronic Signature Policy is to exercise the authority granted to the City Council pursuant to Section 8-1A-17 and Section 8-1A-18 of the Alabama Uniform Electronic Transactions Act, Chapter 1A of the Code of Alabama 1975, to determine whether and the extent to which, city agencies will create and retain electronic records and convert written records to electronic records, send and accept electronic records and electronic signatures to and from other persons, and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures.

Scope

To the fullest extent permitted by the UETA, consistent therewith, and subject to the limitations therein, this article is intended to authorize the use of electronic records and electronic signatures in the conduct of the official business of the City, by City Agencies and the conduct of official business with City agencies by any person. Such use shall be in accordance with and subject to the provisions of the UETA and this article. This article does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

Limitations

Notwithstanding anything to the contrary contained in this article or the UETA:

1. In no event shall any legal or binding recognition or effect be given to a record purported to be executed by a City signatory using an electronic signature, if the execution is not duly authorized in accordance with applicable law; and
2. In the event that any electronic signature is found by the City to have been used or applied to a City record in violation of this article, the UETA, or any other law, the electronic signature shall be null and void and the City record signed electronically using the unlawful, fraudulent, unauthorized or otherwise improper electronic signature shall also be null and void, discontinued, and unenforceable against the City.

Definitions

The definitions set forth in section 8-1A-2 of the UETA are expressly incorporated into this article by reference as if fully set forth herein. In addition, as used in this article, each of the following words have the following meanings:

Authentication: Verifying the identity of a user, process, or device, often as a prerequisite to allowing access to a system's resources.

City: The City of Bay Minette, Alabama

City Agency: an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the City of Bay Minette.

City Signatory: a person who is an elected or appointed official, officer, employee, agent, or legal representative of the City who executes a document on behalf of the City or a City Agency.

Digital Signature: A subset of electronic signature technology. Digital Signature encrypt documents with digital codes to verify the user's identity and support authentication, data integrity and signer non-repudiation.

Electronic Signature or E-Sign: Legal concept that uses technology to ensure the signature may not be denied legal effect, validity or enforceability.

Identity: An attribute or set of attributes that uniquely describe a subject within a given context.

Integrity: Maintaining the accuracy and completeness of data over its entire lifecycle.

Non-Repudiation: Assurance that the signer cannot deny the authenticity of their signature.

OIT. The State of Alabama Information Technology, as established in Code of Alabama 1975, Section 8-1A-1 et seq.

Records Disposition Authority (RDA): An agency level records retention schedule issued by the State Records Commission under the authority granted by the Code of Alabama 1975, Section 41-13-5 and 41-13-20 through 21.

Uniform Electronic Transactions Act (UETA): Chapter 1A of Title 8 of the Code of Alabama 1975, as such act may be amended at any time and from time to time.

Creation and retention of electronic records.

- a. To the fullest extent permitted by the UETA in accordance therewith, subject to the limitation therein, and subject to the provisions of this article, city agencies are hereby authorized to create and retain electronic records and to convert written records to electronic records, pursuant to Section 8-1A-17(b) of the UETA. Any such electronic records will be retained in compliance with applicable law including section 8-1A-12 of the UETA and requirements of the Local Government Records Commission ("LGRC"). A City Agency may create a retrievable electronic records or copy, by optical scan or otherwise, of originals and documents or make other images or paper

copies which accurately reproduces the original document or make other images or paper copies which accurately reproduce the originals, and may destroy original paper documents so copied as specified in the Records Disposition Authority ("RDA") issued by the LGRC under the authority granted by section 41-13-5 and section 41-13-22 through 24 of the Code of Alabama 1975. The city clerk may exercise oversight over the retention and conversion of electronic records.

- b. Notwithstanding anything to the contrary contained in this article or the UETA, an electronic document retains the characteristics of the original document, including whether or not the document is a public record or is confidential or otherwise protected from disclosure.

Use of electronic signatures and electronic records

Authorization

To the fullest extent permitted by the UETA, in accordance therewith, subject to the limitations therein, and subject to the provisions of this article, city agencies are hereby authorized to create and retain electronic records and convert written records to electronic records, pursuant to subsection **Limitations** below, are hereby authorized to send and accept electronic records and electronic signature to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures pursuant to section 8-1A-18 (a) (2) of the UETA.

Limitations

- A. In the case of deeds and other instruments that are to be notarized, acknowledged, verified, or made under oath, the use of electronic records and electronic signatures shall be as determined by the City attorney, subject to applicable laws, including those governing real estate transactions and notaries.
- B. The mayor may, but is not obligated to, elect for each City Agency under his/her supervision and control whether electronic signatures or electronic records will be used for types of transaction or documents of that City Agency, or (ii) delegate such authority, in whole or part, to the head of a City Agency; and
- C. The use of electronic records or electronic signatures may be limited or refused by a City Agency upon the advice of the City attorney.

In order to ensure compliance with section 8-1A-18(b) of the UETA, use of electronic records and electronic signatures will require usage of software designed for this purpose (i.e. DocuSign or Adobe Sign) who have been warranted for compliance with applicable federal, state and industry regulations. Subject to the requirements set forth in subsection (a) above, the City Administrator is hereby authorized to oversee the use of electronic records and electronic signatures by City agencies, and to otherwise facilitate the implementation of this article through the development of policies, protocols, or recommendations that specify each of the following:

1. The manner and format in which the electronic records shall be created,

generated, sent, communicated, received, and stored and the systems established for those purposes.

2. If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature shall be affixed to the electronic record, and the identity of, or criteria that shall be met by, any third party used by a person filing a document to facilitate the process.
3. Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records.

Section 2. The severability provisions of the Code of Ordinances of the City of Bay Minette, Alabama are specifically included herein as if fully set forth.

Section 3. This Ordinance shall become effective upon its adoption and publication.

ADOPTED this the 18th day of November, 2024.



Robert A. Wills, Mayor
City of Bay Minette, Alabama

Attest:



Rita Diedtrich, City Clerk

