

ORDINANCE NO: 22- _____

BE IT ORDAINED by the City Council of the City of Huntsville, Alabama as follows:

Section 1. Chapter 2 of the Code of Ordinances of the City of Huntsville, Alabama is hereby amended by adding the following Article XII:

ARTICLE XII. ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES

Sec. 2-2160. Purpose; scope; limitations.

(a) *Purpose.* The purpose of this article 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 Title 8 of the Code of Ala. 1975 (UETA), 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.

(b) *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.

(c) *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 a city agency 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.

Sec. 2-2161. – 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:

City agency means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the city.

City signatory means a person who is an elected or appointed official, officer, employee, agent, or legal representative of a city agency who executes a document on behalf of the city or a city agency.

Electronic media protocol officer means the director of the city's information technology systems department or any one or more of his/her designees or subordinates; or such other or additional person as may be designated by the mayor.

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

Sec. 2-2162. Creation and retention of electronic records.

(a) 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 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 the requirements of the Local Government Records Commission ("LGRC"). A city agency may create a retrievable electronic record or copy, by optical scan or otherwise, of paper original documents 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 sections 41-13-22 through 24 of the Code of Ala. 1975. The city clerk-treasurer 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.

Sec. 2-2163. Use of electronic signatures and electronic records.

(a) *Use authorized; limitations.*

(1) *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, subject to subsection (2) below, are hereby authorized to 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, pursuant to section 8-1A-18(a)(2) of the UETA.

(2) *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 particular 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.

(b) In accordance with section 8-1A-18(b) of the UETA, use of electronic records and electronic signatures will comply, at a minimum, with the following requirements:

(1) Provide an identical copy of the original signed and executed document to the signer.

(2) Ensure non-repudiation; that the signer cannot deny the fact that he or she electronically signed the document.

(3) Capture information about the process used to capture signatures (i.e. create an audit trail), including but not limited to:

a. IP address

b. Date and time stamp of all events

c. All web pages, documents, disclosures, and other information presented

d. What each party acknowledged, agreed to, and signed

(4) Encrypt, end-to-end, all communication within the signature process. Encryption technologies shall comply with state encryption standards, including the requirements that cryptographic modules be validated to the current Federal Information Processing Standards (FIPS).

(b) The information contained in subsection (a) constitutes the minimum that is required for a valid electronic signature. Subject to subsection (c) below, any authorized person within a city agency may require additional reasonable information from a signer in order to establish the identity and signature authority of the signer. The electronic media protocol officer may provide additional requirements subject to this article and the UETA.

(c) Subject to the requirements set forth in subsection (a) above, the electronic media protocol officer of the city 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 section 1-8 of the Code of Ordinances of the City of Huntsville, Alabama are specifically included herein by reference as if fully set forth.

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

ADOPTED this the _____ day of _____, 2022.

President of the City Council
of the City of Huntsville, Alabama

APPROVED this the _____ day of _____, 2022.

Mayor of the City of Huntsville,
Alabama