



## CITY OF NORMAN, OK STAFF REPORT

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**MEETING DATE:** 11/09/2021

**REQUESTER:** Kathryn Walker, City Attorney

**PRESENTER:** Heather Poole, Assistant City Attorney

**ITEM TITLE:** CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF ORDINANCE O-2122-26 UPON FIRST READING BY TITLE: 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.

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### **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 adding Article VI to Chapter 2 of the Code of the City of Norman 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, and providing for the severability thereof.