

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE CITY CODE, MAKING CERTAIN ADDITIONS AND DELETIONS IN “CHAPTER 1 – GENERAL PROVISIONS,” SECTION 1-2 “RULES OF CONSTRUCTION;” AND “CHAPTER 2 – ADMINISTRATION” BY ADDING SECTION 2-7 “SIGNATURES & SEALS: ELECTRONIC, DIGITAL, AND FACSIMILE,” AND APPROVING THE ADOPTION OF CITY RULES FOR SAME; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, this Mesquite City Code text amendment provides for the authorization of electronic, digital, and facsimile signatures and approves the adoption of City Rules for same; and

WHEREAS, this ordinance, the Mesquite City Code text amendments (**EXHIBIT “A”**), and the Rules for Electronic, Digital, and Facsimile Signatures & Seals (the “**Rules**”) (**EXHIBIT “B”**) will authorize the *use* and *acceptance* of electronic, digital, digitized, and facsimile signatures and seals to conduct transactions both internal and external by and to the City of Mesquite (“**City**”); and

WHEREAS, pursuant to Mesquite City Charter, Article III, [Section 1](#), the City may use a corporate seal; and

WHEREAS, pursuant to Mesquite City Charter, Article IV, [Section 25](#), the City Secretary shall have custody of the seal of the City (“**City Seal**”) and shall affix same to such documents and obligations only of the City as he or she may be legally authorized so to do; and

WHEREAS, pursuant to the Uniform Facsimile Signature of Public Officials Act, Texas Government Code, Title 6, Subtitle A, [Chapter 618](#), an authorized officer of the City may execute, authenticate, certify, or endorse or authorize to be executed, authenticated, certified, or endorsed with the officer's facsimile signature instead of the officer's manual “wet” signature certain City transactions and contracts when authorized by the City Council; and

WHEREAS, the Texas Uniform Electronic Transactions Act (“**Texas UETA**”), Texas Business and Commerce Code, Title 10, Subtitle B, [Chapter 322](#), authorizes and gives legal effect to electronic records, electronic signatures, and electronic contracts; and

WHEREAS, pursuant to Texas Government Code [§ 2054.060](#), a digital signature may be used to authenticate a written electronic communication sent to the City or to a State agency if it complies with the Rules adopted by the City Council; and

WHEREAS, it is the intent of the City Council of the City of Mesquite, Texas (“**City Council**”) to protect the public health, safety, and welfare; and

WHEREAS, the City of Mesquite, Texas, (“**City**”) is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to Article 11, [Section 5](#) of the Texas Constitution and [Chapter 9](#) of the Texas Local Government Code; and

WHEREAS, a home-rule municipality has full power of local self-government, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 51, [Section 51.072\(a\)](#); and

WHEREAS, the City Council finds that it is in the best interests of the citizens of the City to amend the Mesquite City Code as herein provided.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. **Recitals Incorporated.** The City Council hereby finds and determines the recitals made in the preamble of this ordinance are true and correct, and hereby incorporates such recitals here in the body of this ordinance as if copied in their entirety.

SECTION 2. **MESQUITE CITY CODE AMENDMENTS.**

- 2.01. CHAPTER 1 – GENERAL PROVISIONS of the Mesquite City Code is hereby amended by making certain additions and deletions in “Section 1-2 Rules of Construction.”
- 2.02. CHAPTER 2 – ADMINISTRATION of the Mesquite City Code is hereby amended by adding new Section 2-7 “Signatures & Seals: Electronic, Digital, and Facsimile.”
- 2.03. The amendments are identified in **EXHIBIT A** and said exhibit is attached hereto and made a part hereof, and in all other respects, said Code, Chapters, Articles, Divisions, and Sections shall remain in full force and effect.

SECTION 3. **RULES.**

- 3.01. Rules for Electronic, Digital, and Facsimile Signatures & Seals (the “**Rules**”) are drafted in accordance with the Texas Uniform Electronic Transactions Act (“**Texas UETA**”) in the Texas Business and Commerce Code, Chapter 322, as may be amended from time to time.
- 3.02. To provide notice to third-parties, the Rules shall be maintained on the City’s website and on the City’s internal intranet.
- 3.03. The Rules are identified in **EXHIBIT B** and are hereby approved.
- 3.04. The City Manager or his/her designee, with assistance from the City Attorney’s Office, shall from time to time, as needed, make revisions and other updates to said Rules without the need for additional City Council approval, so long as the Rules are substantially in accordance with the intent and authorization of this ordinance and applicable State law.

SECTION 4. **CITY POLICY and/or ADMINISTRATIVE DIRECTIVE.** The City Manager or his/her designee is authorized to adopt other such City policies and/or an administrative directive regarding Electronic, Digital, and Facsimile Signatures and Seals, in accordance with the Texas Uniform Electronic Transactions Act (“**Texas UETA**”) in the Texas Business and Commerce Code, Chapter 322 as may be amended from time to time.

SECTION 5. **Conflicts Resolution Clause.** In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Mesquite and the provisions of this Ordinance, the provisions of this Ordinance shall be controlling.

SECTION 6. **Severability Clause.** Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, the Mesquite City Code, as hereby or previously amended, or the Mesquite Zoning Ordinance, as hereby or previously amended, which shall remain in full force and effect.

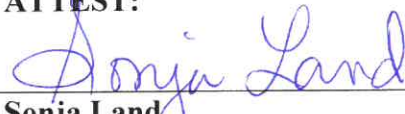
SECTION 7. **Effective Date.** That this ordinance shall take effect and be in force immediately upon its adoption pursuant to Mesquite City Charter, Article IV, [Section 24](#), and it is accordingly so ordained.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on this the **3rd day of JANUARY 2022**.




Kenny Green
Mayor Pro Tem

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

EXHIBIT A

To Ordinance No. 4927

MESQUITE CITY CODE

Amending

Chapter 1, Section 1-2; and Chapter 2, Article I.

MESQUITE CITY CODE

CHAPTER 1 – GENERAL PROVISIONS

* * *

Sec. 1-2. - Rules of construction.

[Editor's note: Repeal and replace the definition for "Signature or subscription" to now read as follows:]

* * *

Signature, Signed, or Subscription means a signature affixed by a person with present intention to authenticate a writing. Signed includes any symbol executed or adopted by a person with present intention to authenticate a writing.

Similar State Law provisions—

"Signed" defined, V.T.C.A. Government Code, § 311.005 (6).

"Digital signature" defined, Information Resources Management Act, Texas Government Code, Title 10, Subtitle B, Chapter 2054, § 2054.060 (E)(1).

"Electronic signature" defined, Uniform Electronic Transaction Act ("UETA"), V.T.C.A. Business and Commerce Code, § 322.002 (8).

"Facsimile signature" defined, Uniform Facsimile Signature of Public Officials Act, Texas Government Code, Title 6, Subtitle A, Chapter 618, § 618.002 (4).

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CHAPTER 2 – ADMINISTRATION

ARTICLE I. – IN GENERAL.

[Editor's note: Add the following new section to Chapter 2, Article I, to read as follows:]

* * *

Sec. 2-7. – Signatures & Seals: Electronic, Digital, and Facsimile

(a) Signatures.

(1) *Authorization.* City Council authorizes the use and acceptance of electronic, digital, or facsimile signatures for City transactions, relating to business, commercial, or governmental affairs, in accordance with the City's rules, and State, federal, or other law, as may be amended.

(2) *Rules.* The City's rules shall be posted on the City's web-site.

(b) Seals.

(1) *Notary Public Seal of Office and other Professional Seals.* City Council authorizes the use and acceptance of an electronic, digital, or facsimile notary public seal of office ("Notary Seal"), and other professional seals for City electronic transactions, relating to business, commercial, or governmental affairs, in accordance with the City's rules and State law, as may be amended.

(2) *City Corporate Seal.* City Council authorizes the use of an electronic, digital, or facsimile corporate seal ("City Seal") by the City Secretary or his/her designee for electronic transactions, relating to business, commercial, or governmental affairs, in accordance with Mesquite City Charter, the City's rules, and State law, as may be amended.

(3) *Rules.* The City's rules shall be posted on the City's web-site.

State law references –

Texas Uniform Electronic Transaction Act (“UETA”), V.T.C.A., Business and Commerce Code, Chapter 322, et seq.
Uniform Facsimile Signature of Public Officials Act, V.T.C.A., Government Code, Title 6, Subtitle A, Chapter 618, § 618.001, et seq.
“Digital signature” defined, Information Resources Management Act, Texas Government Code, Title 10, Subtitle B, Chapter 2054, § 2054.060 (E)(1).
“Electronic signature” defined, Uniform Electronic Transaction Act (“UETA”), V.T.C.A. Business and Commerce Code, § 322.002 (8).
“Facsimile signature” defined, Uniform Facsimile Signature of Public Officials Act, Texas Government Code, Title 6, Subtitle A, Chapter 618, § 618.002 (4).
Required elements of notary’s seal, V.T.C.A., Government Code, Chapter 406, § 406.013.
Authority for Facsimile Seal, V.T.C.A., Government Code, Title 6, Subtitle A, Chapter 618, § 618.007.

Cross references –

Use of corporate seal, City Charter, Article III, [Section 1](#).
City Secretary maintains custody of the seal of the City, City Charter, Article IV, [Section 25](#).

Secs. 2-8—2-25. - Reserved.

EXHIBIT B

To Ordinance No. 4927

Rules for Electronic, Digital, and Facsimile Signatures & Seals

City of Mesquite, Texas
Rules for Electronic, Digital, and Facsimile Signatures & Seals

Pursuant to Mesquite City Code, Chapter 2, Article I, Sec. 2-7.

Authorization.

The City Council has authorized the use and acceptance of electronic, digital, and facsimile signatures and seals for City transactions, relating to business, commercial, or governmental affairs. Mesquite City Code, Chapter 2, Article I, Sec. 2-7.

Scope.

These “Rules” apply to all City departments and divisions that desire to use and accept electronic, digital, digitized, and facsimile **signatures** and **seals** to conduct transactions both *internal* and *external* to the City.

Other Policies and Procedures.

City departments and divisions wishing to receive authorization to incorporate electronic, digital, digitized, and facsimile signatures and seals into their electronic or hardcopy/paper workflow processes should review all relevant rules, regulations, and Information Technology (“IT”) policies & procedures.

Signatures: Electronic and Digital.

- (1) An **electronic signature (“e-Signature”)** is 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. Texas Uniform Electronic Transaction Act (“UETA”), Tex. Bus. & Com. Code Ann. § 322.002 (8).
- (2) A **digital signature** is a form of an electronic signature and contains an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature (aka “wet signature”). Information Resources Management Act, Tex. Gov’t Code Ann. § 2054.060 (e)(1).
- (3) A **digital signature** may be used to authenticate a written electronic communication sent to a local government (“**City**”) if it complies with rules adopted by the governing body (“**City Council**”) of the City. Before adopting the City’s Rules, the City Council shall consider the rules adopted by the Texas Department of Information Resources (“**Texas DIR**”) and, to the extent possible and practicable, shall make the City’s Rules consistent with the Texas DIR’s rules. Tex. Gov’t Code Ann. § 2054.060 (b).
- (4) Procedures for proper use and acceptance of **electronic signatures** (which includes **digital signatures**) may be found under the Texas Uniform Electronic Transactions Act (“UETA”). Tex. Bus. & Com. Code Ann. § 322.001, et seq.

E-Contracts.

- (1) When an electronic contract (“**e-Contract**”) is generated by the City, the e-Signature shall be a **digital signature**.
- (2) When an e-Contract is not generated by the City, if an electronic signature is accepted by the City, the required signature type shall be a **digital signature**. The City’s *preferred* software is DocuSign software, or other software on the Texas Department of Information Resources (“DIR”) “Approved List of PKI Service Providers.” SEE Texas Administrative Code, Title 1, Part 10 Department of Information Resources.
 - Rule §203.24. Acceptable Digital Signature Technology
 - Rule §203.25. Acceptable PKI Service Providers
- (3) Each party to a transaction must agree to conduct the transaction electronically for the **electronic transaction** to be valid and binding. Consent may be implied from the context and surrounding circumstances, including the parties’ conduct. Tex. Bus. & Com. Code, § 322.005. If a law prohibits a transaction from occurring electronically, the transaction must occur in the manner specified.

NOTICE REGARDING UNLAWFUL, FRAUDULENT, UNAUTHORIZED, OR IMPROPER SIGNATURES

In the event that any electronic signature, including a digital signature, digitized signature, or facsimile signature, is found by the City to have been used or applied to a City record or document, or was certified, in violation of this policy or any other law **the signature** and the **City record or document** signed electronically, or otherwise, using the **unlawful, fraudulent, unauthorized, or otherwise improper signature** shall also be **(1) NULL AND VOID, (2) DISCONTINUED, and (3) UNENFORCEABLE AGAINST THE CITY.**