

**IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO**

**ORDINANCE NO. 2022-016**

**ORDINANCE ADDING ARTICLE 1 TO CHAPTER 1-9 OF TITLE 1 OF THE SAN LEANDRO MUNICIPAL CODE PERTAINING TO ELECTRONIC SIGNATURES**

**WHEREAS**, in 1995, California passed Government Code section §16.5, authorizing public entities, including cities, to accept a "digital signature" for any written communication, so long as the digital signature meets certain requirements and complies with regulations adopted by the Secretary of State; and

**WHEREAS**, the regulations adopted by the Secretary of State in 1998 require a public entity, before accepting a digital signature, to ensure that (1) the level of security used to identify the signer of a document is sufficient for the transaction being conducted, (2) the level of security used to transmit the signature is sufficient for the transaction being conducted, and (3) any certificate format used by the signer is sufficient for the security and interoperability needs of the public entity (2 Cal. Code Regs. §22005); and

**WHEREAS**, in 1999, California adopted a version of the Uniform Electronic Transactions Act (UETA) in California Civil Code §1633.1 to §1633.17, giving electronic signatures the same legal effect as manual or "wet" signatures; and

**WHEREAS**, UETA applies broadly to "any action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs" (Civil Code, §1633.2, subd. (o)) and transactions subject to UETA need not meet the specific requirements of Government Code section 16.5 and its implementing regulations (Gov. Code, §16.5, subd. (e)); and

**WHEREAS**, in 2000, the United States Congress passed the Electronic Signatures in Global and National Commerce Act (E-SIGN Act), mandating the same treatment of electronic signatures and manual signatures in interstate or foreign commerce (15 U.S.C. §7001); and

**WHEREAS**, the use of electronic signatures on legally binding documents has become increasingly prevalent in the private sector and is gaining prevalence among public agencies; and

**WHEREAS**, the benefits of electronic signatures include, but are not limited to, reductions in the paper, time, and costs associated with transmitting, approving, and executing physical documents; and

**WHEREAS**, electronic signature technologies have developed to address concerns with verifying the identity of the person affixing his or her electronic signature; and

**WHEREAS**, the City wishes to benefit from the efficiencies and benefits of electronic signatures, while using technology that addresses these security concerns; and

**WHEREAS**, Chapter 1-9 is currently reserved in the San Leandro Municipal Code and the City Council desires to codify this Ordinance in Chapter 1-9 and;

**WHEREAS**, this Ordinance enables the City to use electronic signatures on electronic records provided the signature is in accordance with UETA or Government Code section §16.5, as applicable; and

**WHEREAS**, this Ordinance codifies the City's policy on electronic signatures, while enabling the City Manager to adopt additional policies and procedures to operationalize the use of electronic signatures; and

**WHEREAS**, the City Council finds that the use of electronic signatures will allow the City to collect and preserve signatures on documents quickly and securely, will improve efficiency while saving costs of transmitting documents, and will provide for better management of City records.

**NOW, THEREFORE**, the City Council of the City of San Leandro hereby **ORDAINS** as follows:

**SECTION 1. Findings**

The City Council of San Leandro finds that all Recitals are true and correct and incorporated herein by reference.

**SECTION 2. Addition to Title 1**

Article 1 (Electronic Signatures), Chapter 1-9 (Signatures) of the San Leandro Municipal Code is hereby added as follows:

**1-9-100        Electronic Signatures**

- (a) The following definitions apply to this section:
  - (1) "Electronic signature" has the same meaning as in Section §1633.2 of the California Civil Code.
  - (2) "Digital signature" has the same meaning as in Section §16.5 of the California Government Code.
  - (3) "Transaction" has the same meaning as in Section §1633.2 of the California Civil Code.
  - (4) "UETA" means the Uniform Electronic Transactions Act, commencing at Section §1633.1 of the California Civil Code.
- (b) In any transaction with the City, in which the parties have agreed to conduct the transaction by electronic means, the City may use and accept an electronic signature, if the electronic signature complies with the UETA.
- (c) In any written communication with the City, in which a signature is used or required, the City may use or accept a digital signature, if the digital signature complies with Section §16.5 of the California Government Code.
- (d) The City Manager or designee shall determine the documents for which the City may use and accept electronic signatures or digital signatures. The City Manager or designee shall further determine acceptable technologies and vendors under this section to ensure the security and integrity of any data and signatures. In determining which technologies and vendors are acceptable for digital signatures, the City Manager or designee shall comply

with all applicable regulations, including but not limited to ensuring that the level of security used to identify the signer of a document and the level of security used to transmit the signature are sufficient for the transaction being conducted. In addition, to the extent necessary, the City Manager or designee shall ensure that any certificate involved in obtaining a digital signature by the signer is sufficient for the City's security and interoperability needs. The City Manager or designee shall set forth these determinations in a written policy or Administrative Regulation.

**SECTION 3. Severability**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**SECTION 4. Publication and Effective Date**

This ordinance shall take effect thirty (30) days after adoption. The City Clerk is directed to publish the title once and post a complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to adoption.

Introduced by Councilmember Aguilar and passed to print on the 7<sup>th</sup> day of November 2022 by the following called vote:

Members of the Council:

AYES:	Councilmembers Aguilar, Azevedo, Ballew, Cox, Lopez, Simon and Cutter	(7)
NOES:	None	(0)
ABSENT:	None	(0)

Passed and adopted the 21<sup>st</sup> day of November 2022 after publication on November 11, 2022 by the following called vote:

Members of the Council:

AYES:		(0)
NOES:		(0)
ABSENT:		(0)

ATTEST: \_\_\_\_\_  
Kelly B. Clancy, Acting City Clerk