

County Council of Cuyahoga County, Ohio

Ordinance No. O2014-0015

Sponsored by: Council President Connally/Department of Law	An Ordinance enacting the Cuyahoga County Electronic Modernization Act by authorizing the electronic delivery and execution of legislation, contracts, and other instruments and documents.
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WHEREAS, Article III, Section 3.09 of the Cuyahoga County Charter provides that “the legislative power of the County, including the power to introduce, enact and amend ordinances and resolutions relating to all matters within the legislative power of the County, is vested in the Council”; and,

WHEREAS, Article III, Section 3.09 further states that “all powers of the Council shall be exercised by ordinance or resolution”; and,

WHEREAS, Article III, Section 3.10(3) provides that “all legislative action of a general or permanent nature shall be by resolution or ordinance introduced in written or printed form”; and,

WHEREAS, Article III, Section 3.10(5) provides, in pertinent part, that “each ordinance or resolution shall be signed by the presiding officer and promptly presented by the Clerk of Council to the County Executive for approval or disapproval”; and,

WHEREAS, Article III, Section 3.10(6) provides, in pertinent part:

If the County Executive approves a measure approved by Council and presented to him or her by the Clerk of Council, the resolution or ordinance shall be signed by the County Executive and returned to the Clerk of Council within ten days after its passage or adoption. If the County Executive does not approve a measure so presented, the County Executive shall return the measure to the Council with his or her written objections within ten days;

WHEREAS, the Charter does not prescribe the form of signature by the County Executive, Council President, or Clerk of Council necessary under the Charter to give legal effect to resolutions and ordinances; and,

WHEREAS, the Charter does not prescribe a specific method by which the Clerk of Council may present ordinances and resolutions approved by the County Council to the County Executive, nor does the Charter specify the method by which

the County Executive may return a measure to the Council with his signature if approved or with objections if vetoed;

WHEREAS, the United States Department of Justice has issued an official opinion on July 5, 2005, a copy of which is attached to this Ordinance as Exhibit A, which acknowledges that the President may constitutionally direct another to affix the President's signature to an act of congress:

[W]e conclude that the President need not personally perform the physical act of affixing his signature to a bill he approves and decides to sign in order for the bill to become law. Rather, the President may sign a bill within the meaning of Article I, Section 7 [of the U.S. Constitution] by directing a subordinate to affix the President's signature to such a bill, for example by autopen.

WHEREAS, Council has determined that the use of electronic signatures would enhance the efficient operation of the legislative process; and,

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. Chapter 102 of the Cuyahoga County Code is hereby amended as follows:

(a) The term "Electronic Signature" is hereby added to the definitions in Chapter 102 as follows:

"Electronic Signature" shall mean an electronic sound, symbol, or process attached to or logically associated with a resolution, ordinance, contract, agreement, legal instrument, or other record and executed or adopted by a person with the intent to sign the record.

(b) The Clerk of Council shall affix the proper numbering for the term "Electronic Signature" in Chapter 102 and renumber the remaining definitions in the Chapter accordingly.

SECTION 2. Chapter 110 of the Cuyahoga County Code is hereby enacted as follows:

Chapter 110: Electronic Delivery and Execution of Legislation, Contracts, and other Instruments and Documents

Section 110.01: Electronic Delivery and Execution of Legislation

(a) **Electronic Delivery and Execution.** The presiding officer of Council who is required by Section 3.10(5) of the County Charter to sign each resolution and/or ordinance after its adoption by Council and the County Executive are hereby authorized and may elect to sign resolutions and ordinances by use of electronic signatures. The Clerk of Council is authorized to present resolutions and ordinances to the County Executive for approval or disapproval by electronic transmission and to sign by electronic signatures with regard to legislation. The County Executive is authorized to use electronic signatures and transmission to approve or disapprove any item presented to the Executive and to return it to the Council, including any objections under Section 3.10(6) of the County Charter, via electronic transmission.

(b) **Effect of Electronic Delivery and Execution.** The effect of an electronic signature affixed on a resolution or ordinance by the presiding officer of Council or his or her authorized designee shall be to fulfill the signature requirements contained Section 3.10(5) of the County Charter. The effect of the electronic transmission of a resolution or ordinance by the Clerk of Council or his or her authorized designee to the County Executive for approval or disapproval shall be to fulfill the requirement of Section 3.10(5) of the County Charter. The effect of an electronic signature affixed on a resolution or ordinance by the County Executive or his or her authorized designee for the purpose of approving a resolution or ordinance shall be to fulfill the signature requirement contained in Section 3.10(6) of the County Charter. The effect of the electronic transmission by the Executive or his or her authorized designee of the Executive's written objections to resolutions or ordinances shall fulfill the transmission requirements for disapproving resolutions and ordinances contained in Section 3.10(6) of the County Charter.

Section 110.02: Electronic Execution of Contracts, Instruments, and other Documents

The County Executive or his or her authorized designee may execute any contract, agreement, amendment, or any other legal instrument or document, including, but not limited to, documents and instruments for the issuance of bonds and public debt, using electronic signatures.

Section 110.03: Procedures and Requirements for Electronic Delivery and Signatures

(a) **Procedures for Electronic Delivery and Execution of Legislation.** The Department of Information Technology shall be responsible for developing and, as may be necessary, amending the manner, format, and security procedures governing the electronic delivery and execution of resolutions and ordinances, which shall be subject to the approval of the Director of Law. Upon being approved by the Director of Law, the procedures and any amendments shall be posted on the County's web site, with copies delivered via electronic mail to the County Executive, Council President, and their respective chiefs of staff. The County Executive or Council President may object to the proposed procedures or amendments within seven calendar days of their

electronic receipt of the procedures by submitting the objections to the Director of Law via electronic mail. If the Director of Law does not receive objections from either the County Executive or the Council President within the seven day period, the procedures or amendments shall go into effect on the eighth day of being posted online and submitted to the Executive and Council President.

(b) Procedures for Electronic Execution of Contracts, Agreements, Instruments, and Other Documents. The Department of Information Technology and the Office of Procurement and Diversity shall be responsible for developing and, as may be necessary, amending the manner, format, and security procedures for the electronic delivery and execution of contracts, agreements, instruments, and other documents other than legislation. These procedures shall be subject to the approval of the Director of Law and may go into effect as directed by the Director of Law.

SECTION 3. It is found and determined that all formal actions of this Council relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and any of its committees that resulted such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Mr. Schron, seconded by Ms. Conwell, the foregoing Ordinance was duly enacted.

Yeas: Simon, Greenspan, Miller, Brady, Germana, Gallagher, Schron, Conwell, Jones, Hairston and Connally

Nays: None

County Council President Date

County Executive Date

Clerk of Council Date

First Reading/Referred to Committee: May 13, 2014
Committee(s) Assigned: Council Operations & Intergovernmental Relations

Committee Report/Second Reading: May 27, 2014

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June 10, 2014