

ORDINANCE NUMBER O- 21178 (NEW SERIES)

DATE OF FINAL PASSAGE APR 07 2020

AN EMERGENCY ORDINANCE OF THE COUNCIL OF
THE CITY OF SAN DIEGO PURSUANT TO CHARTER
SECTION 295 AUTHORIZING THE ACCEPTANCE
OF ELECTRONIC SIGNATURES IN PLACE OF
ORIGINALS ON ORDINANCES AND RESOLUTIONS
DURING THE COVID-19 EMERGENCY

WHEREAS, on March 4, 2020, Governor Gavin Newsom (Governor Newsom) proclaimed a State of Emergency in California as a result of the threat of the coronavirus, COVID-19; and

WHEREAS, on March 12, 2020, Mayor Kevin Faulconer proclaimed the existence of a local emergency in the City of San Diego (City) as a result of COVID-19, which was ratified by the Council of the City of San Diego (Council) on March 17, 2020; and

WHEREAS, on March 16, 2020, the San Diego County Health and Human Services Agency ordered that “all businesses shall enact social distancing, increased sanitation standards, and shall make every effort to use telecommuting for its workforce” and also discouraged gatherings of any size; and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N-33-20 ordering everyone living in the State of California to stay home or at their place of residence, except to obtain essential services; and

WHEREAS, Council meetings continue to be held to address important public business, with Councilmembers and City staff having the option to participate in person exercising social distancing, by video conference, or by teleconference, and the public participating via remote access and by submitting comments electronically, which complies with Executive Orders N-25-20 and N-29-20 by Governor Newsom and the Ralph M. Brown Act; and

WHEREAS, San Diego Charter (Charter) section 270(c) provides that “[a]ll substantive actions of the Council shall be passed by adoption of an ordinance or resolution;” and

WHEREAS, Charter section 40 provides that “[i]t shall be the City Attorney’s duty, either personally or by such assistants as he or she may designate . . . to prepare in writing all ordinances [and] resolutions . . . in which the City is concerned, and to endorse on each approval of the form or correctness thereof;” and

WHEREAS, resolutions and ordinances are thus drafted and signed by the City Attorney’s Office, in accordance with Charter section 40, and, those subject to mayoral veto are presented to the Mayor for signature after they are adopted by the Council; and

WHEREAS, Charter section 18 provides that “[u]pon final passage each ordinance or resolution shall be authenticated by the signatures of the Mayor and the City Clerk and shall be recorded in a book kept for that purpose;” unless the Mayor’s signature is not required by the Charter; and

WHEREAS, California Government Code section 36932 also provides that ordinances shall be signed by the Mayor and attested by the City Clerk; and

WHEREAS, as of March 25, 2020, there were more than 297 confirmed cases of COVID-19 within San Diego County, more than 2,535 in California, and at least 53 COVID-19-related deaths in California, and these statistics are increasing daily; and

WHEREAS, as of March 25, 2020, the continued spread of the virus in the City has given rise to the need to mitigate the risk of spread by limiting physical contact, yet signatures must still be collected from multiple parties on ordinances and resolutions; and

WHEREAS, the Council now seeks to adopt emergency procedures, authorized by the COVID-19 emergency declarations by government officials, to satisfy legal requirements to

obtain signatures on ordinances or resolutions, including requirements imposed by California laws, such as California Government Code section 36932, without violating recent state "stay at home" orders and social distancing procedures; and

WHEREAS, the procedures authorized by this ordinance are necessary to sustain critical operations of City government during the COVID-19 emergency, as certain signatures are legally required on City resolutions and ordinances in order for the legal documents to take effect; and

WHEREAS, the integrity of the signator's signature is protected as every City of San Diego employee has access to the City's secure server system or a City-authorized cloud solution (account), and every City employee has a unique login identification (ID) and password associated with that account, and a City employee can only access the account assigned to their unique login ID and password to share files, and all City of San Diego employees are required to use their unique login ID and password when they log in to their account; and at the time of hire each City of San Diego employee has agreed to not disclose this unique login ID and password to any other employee, and under California Civil Code section 1633.9(a) an electronic signature on a document shared through that account will be attributable to the signatory; and

WHEREAS, San Diego, as a Charter city, also may enact procedures for the acceptance of electronic signatures on the City's resolutions and ordinances as such procedures may be deemed to be a municipal affair during this time of emergency, in compliance with the Governor's orders, California Constitution and other governing law; and

WHEREAS, the procedures are to remain in place until a future action deems the COVID-19 emergency to have concluded, terminating the state and local declarations of

emergency due to COVID-19, and until such time as social distancing is no longer legally declared to be necessary; and

WHEREAS, Charter section 11 vests all legislative authority for the City in the Council; and

WHEREAS, the Council finds that there is an emergency necessitating immediate adoption of this Ordinance pursuant to Charter section 295; and

WHEREAS, under Charter section 280(a)(3), this Ordinance is not subject to veto by the Mayor because it is an emergency Ordinance; and

WHEREAS, under Charter section 295(e), a supermajority vote of the Council is required for passage of this Ordinance; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. Legally required signatures on all resolutions and ordinances of the City of San Diego and the City's redevelopment successor agency adopted by the City Council during the pendency of the COVID-19 emergency shall be deemed effective if the signatory authenticates the signature by sharing the electronically-signed document via the City's secure server system or a City-authorized cloud solution, which requires employees to sign on using a City-authorized secure sign-on solution. This procedure shall be in place for all necessary signatories on the document, who shall include, but are not limited to, attorneys from the City Attorney's Office, the Mayor, and the City Clerk or designee.

Section 2. For purposes of this emergency Ordinance, signatories may sign on different hard copies, and submit separate, individual signature pages to the City Clerk.

Section 3. Each signatory shall provide a signed document with a "wet signature" to the City Clerk within 30 days after the COVID-19 emergency orders have been lifted or are

deemed to have ended. A signatory may elect to deliver the original document to the City Clerk earlier, if the signatory desires and the original document may be delivered to the City Clerk's Office without violating any public safety order or any health or safety measures in place.

Section 4. This Ordinance shall remain in effect until termination of the state and local declarations of emergency due to COVID-19, and such time as social distancing is no longer legally declared to be necessary.

Section 5. A full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the City Council and the public prior to the day of its passage.

Section 6. This Ordinance is declared to be an emergency measure required for the immediate preservation of the public peace, safety, health, and welfare pursuant to Charter section 295, and shall take effect immediately from the day of adoption upon the affirmative vote of at least six members of the City Council.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Anjana Pottathil
Anjana Pottathil
Deputy City Attorney

AP:SBS:jdf
03/26/2020
Or.Dept: City Attorney
Doc. No.: 2359104

Passed by the Council of The City of San Diego on APR 07 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage APR 07 2020.

AUTHENTICATED BY: KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal) ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy
for Stacy Ready

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on APR 07 2020, said ordinance being of the kind and character authorized for passage on its introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal) ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy
for Stacy Ready

Office of the City Clerk, San Diego, California

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