

ORDINANCE NO. 131-2024(AS), *Second
Reading (As Amended 07.07.2025)*

By Mayor Seren

An Ordinance amending Chapter 105, "Public Records" of Part One, *Administrative Code*, of the Codified Ordinances of the City of Cleveland Heights, by adding a Section 105.03 "Rules for City Emails;" and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, under Ohio and Cleveland Heights law, emails which serve to document the organization, functions, policies, decisions, procedures, operations, or other activities of the public office are public records; and

WHEREAS, emails sent from or received by private email accounts which meet the definition of public records, are more administratively challenging to produce in response to public records requests and more prone to retention mismanagement and failure to disclose in response to public records requests; and

WHEREAS, the Ohio Electronic Records Committee, in their 2019 publication "Guidelines for Managing Email" states that "Using private email accounts for public business should be avoided. An email on a private email account that includes content that is a record, according to the Ohio Revised Code is still a record and is subject to retention schedules and public record requests. If constituents do send email to a private email address, it should be forwarded to a government email account and the response should be sent from the government account."; and

WHEREAS, there are both legal and non-legal consequences of failure to properly respond to a public records request. In addition to the distrust in government that failure to comply may cause, the public office's failure to comply with a request may result in a court ordering the public office to comply with the law and to pay the requester attorney's fees and damages; and

WHEREAS, policies which promote prompt and complete response to public record requests and inhibit violations of public records laws are in the best interest of the City, its residents, and the general goal of civic transparency; and

WHEREAS, a requirement that Council members and the Mayor refrain from using private email accounts to conduct city business is such a policy which promotes prompt and complete response to public record requests and inhibits violations of public records laws, and as such, is in the best interest of the City, its residents, and the general goal of civic transparency.

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NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND HEIGHTS, THAT:

SECTION 1. Chapter 105, "Public Records" of Part One, Administrative Code, of the Codified Ordinances of the City of Cleveland Heights, shall be and is hereby amended by adding a new Section 105.03 "Rules for City Emails" to read as follows:

105.03 RULES FOR CITY EMAILS

- (a) A document in email format, created or received by or coming under the jurisdiction of any public office or public body of the City which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the City, is a "record" within the meaning of this chapter and as defined by the Ohio Revised Code.
- (b) The Mayor shall provide or cause to be provided official City email accounts for use by the Mayor, each member of Council, and each City employee. The Mayor may provide an official City email to anyone providing contract services with the City. No other person shall be issued or allowed to use or access a City email account.
- (c) The Mayor and Council members, and City employees are prohibited from using private email accounts to conduct City business and shall exclusively use the above referenced official City email accounts when conducting City business through the email medium, unless use of the official City email account or system is impossible, impracticable, or such system is inaccessible.
- (d) If the Mayor, member of Council, or City employee or contract receive a document in email format to a private email account which is a public record, they shall forward such email to the official City email account provided for their use. When practical, any response shall be sent from the official City email account.

SECTION 2. It is found and determined that all formal actions of the Council relating to the adoption of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

SECTION 3. Notice of passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 4. It is necessary that this Ordinance become immediately effective as an emergency measure necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the

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need to ensure compliance with the Ohio Public Records Act. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.



TONY CUDA
President of Council



ADDIE BALESTER
Clerk of Council

PASSED: July 7, 2025

Presented to Mayor: 07/08/2025 Effective Date: 07/18/2025

KAHLIL SEREN
Mayor

*Effective date per Article IV, Section 5 of the Codified Ordinances of the City of Cleveland Heights