

ORDINANCE NO. 2004-56
Passed August 3, 2004

AN ORDINANCE REPEALING SECTION 521.10 OF THE CODIFIED ORDINANCES OF CITY OF POWELL ENTITLED "NON-SMOKING AREA IN PLACES OF PUBLIC ASSEMBLY.

WHEREAS, Council had previously adopted an Ordinance regulating non-smoking in certain areas in the City of Powell and,

WHEREAS, *Codified Ordinance §521.10* is not as restrictive as new, non-smoking legislation adopted by the City and,

WHEREAS, Council wishes to eliminate any possible confusion by having two Ordinances regulating in different respects smoking in public places and places of public assembly therefore determines that repeal of *§521.10* is appropriate.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF POWELL, DELAWARE COUNTY, OHIO AS FOLLOWS:

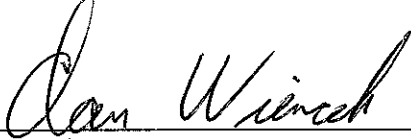
Section 1: That *Codified Ordinance §521.10*, a copy of which is attached hereto and incorporated herein by reference is repealed in its entirety.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this *Ordinance* were adopted in an open meeting of the Council and that all deliberations of the Council and any of the decision making bodies of the City of Powell which resulted in such formal actions were in meetings so open to the public in compliance with all legal requirements of the City of Powell, Delaware County, Ohio.

Section 3: That this *Ordinance* shall take effect upon the earliest possible date permitted by law but no sooner than the effective date of *Chapter 522* of the *Codified Ordinances* of the City of Powell.

VOTE ON RULE SUSPENSION: Y 7 N 0

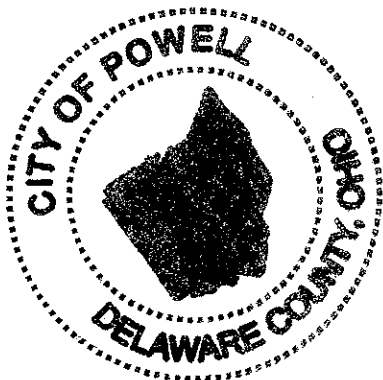
VOTE ON ORDINANCE NO.: 2004-56 Y 7 N 0

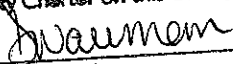


Dan Wiencek, Mayor Date



Dawn Nauman, Clerk Date



This legislation has been posted in accordance with
the City Charter on this date 8/3/04


Clerk of Council

521.10 NONSMOKING AREAS IN PLACES OF PUBLIC ASSEMBLY.

(a) As used in this section, "place of public assembly" means:

(1) Enclosed theaters, except the lobby; opera houses; auditoriums; classrooms; elevators; rooms in which persons are confined as a matter of health care, including but not limited to a hospital room and a room in a rest home serving as the residence of a person living in such rest home;

(2) All buildings and other enclosed structures owned by the State, its agencies or political subdivisions, including but not limited to hospitals and State institutions for the mentally retarded and the mentally ill; university and college buildings, except rooms within those buildings used primarily as the residences of students or other persons affiliated with the university or college; office buildings; libraries; museums; and vehicles used in public transportation. That portion of a building or other enclosed structure that is owned by the State, a State agency or a political subdivision and that is used primarily as a food service establishment is not a place of public assembly.

(3) Each portion of a building or enclosed structure that is not included in subsection (a)(1) or (2) hereof is a place of public assembly if it has a seating capacity of fifty or more persons and is available to the public. Restaurants, food service establishments, dining rooms, cafes, cafeterias or other rooms used primarily for the service of food, as well as bowling alleys and places licensed by the Department of Liquor Control to sell intoxicating beverages for consumption on the premises, are not places of public assembly.

(b) For the purpose of separating persons who smoke from persons who do not smoke for the comfort and health of persons not smoking, in every place of public assembly there shall be an area where smoking is not permitted, which shall be designated a no smoking area. Provided that, no more than one-half of the rooms in any health care facility in which persons are confined as a matter of health care may be designated as smoking areas in their entirety. The designation shall be made before the place of public assembly is made available to the public. In places included in subsection (a)(1) hereof the local fire authority having jurisdiction shall designate no smoking area. In places included in subsection (a)(2) hereof that are owned by the Municipality, Council shall designate an officer who shall designate the area. In places included in subsection (a)(3) hereof, the person having control of the operations of the place of public assembly shall designate the no smoking area. In places included in subsection (a)(2) hereof which are also included in subsection (a)(1) hereof, the officer who has authority to designate the area in places in subsection (a)(2) hereof shall designate the no smoking area. A no smoking area may include the entire place of public assembly. Designations shall be made by the placement of signs that are clearly visible and that state "NO SMOKING". No person shall remove signs from areas designated as no smoking areas.

(c) This section does not affect or modify the prohibition contained in Ohio R.C. 3313.751(B).

(d) No person shall smoke in any area designated as a no smoking area in accordance with subsection (b) hereof or Ohio R.C. 3791.031.

(e) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 3791.031)

