

# ORDINANCE C-76-05

## AN ORDINANCE TO REPEAL SECTION 521.20 OF THE CODIFIED ORDINANCES OF GROVE CITY, OHIO, TITLED SMOKING PROHIBITED AND ENACT A NEW CHAPTER 522 TITLED, SMOKING PROHIBITIONS

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WHEREAS, it is the duty of Council to establish ordinances for the health, safety and general welfare of the people of Grove City; and

WHEREAS, The United States Centers for Disease Control states that exposure to secondhand smoke accounts for between 38,000 and 62,000 deaths of non-smoking Americans each year; and

WHEREAS, secondhand smoke has been shown to substantially increase the risk of lung cancer, nasopharyngeal cancer, breast cancer, heart disease, asthma and sudden infant death, syndrome; and

WHEREAS, the United States Environmental Protection Agency has classified secondhand smoke as a "Class A Carcinogen"; and

WHEREAS, there is no safe level of exposure to Class A carcinogens; and

WHEREAS, every person should have the right to breath indoor air that is free of toxins; and

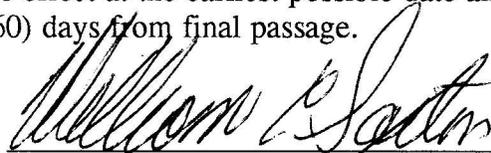
WHEREAS, every person should have the right to work in a healthy and healthful environment; and

WHEREAS, exposure to secondhand smoke posses a health risk to employees and patrons who are exposed to it.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

**SECTION 1.** Section 521.20 is hereby repealed in its entirety and the following Chapter 522, titled Smoking Prohibitions, be and hereby is enacted as shown in Exhibit "A" attached hereto and made a part hereof.

**SECTION 2.** That this ordinance shall take effect at the earliest possible date allowed by law but it provisions shall not be enforced until sixty (60) days from final passage.



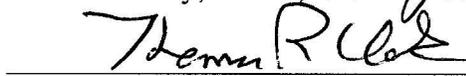
William E. Saxton, President of Council



Cheryl L. Grossman, Mayor



Tami K. Kelly, MMC, Clerk of Council



Thomas R. Clark, Director of Law

Passed: 08-15-05  
Effective: 09-14-05

Attest:

I certify that this resolution is correct as to form.

CHAPTER 522  
Smoking Prohibitions

522.01	Definitions	522.06	Posting of Signs;
522.02	Prohibitions		prohibition of Ashtrays
522.03	Areas where Smoking is not Regulated by this Chapter	522.07	Enforcement
522.04	Construction; other applicable laws	522.08	Severability
522.05	Declaration of establishment as Nonsmoking	522.99	Penalties

Cross-Reference

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522.01 DEFINITIONS

For purposes of this chapter:

- \*(a) "Bar" means any establishment devoted to the sale and service of alcoholic beverages for on-premise consumption, where the service of food is merely incidental to the operation of the business.
- \*(b) "Bowling Centers" means any enclosed, indoor area where groups of bowling lanes are utilized by the public for the sport of bowling.
- (c) "Business" means a sole proprietorship, partnership, association, joint venture, corporation, or any limited liability form of any of the foregoing, or any other entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, financial, counseling, or other professional or consumer services are provided.
- (d) "Employee" means a person who is employed by an employer, or who contracts with an employer or who contracts with a third person to perform services for an employer, or who otherwise performs services for an employer in consideration for direct or indirect monetary wages or profit, or any person who volunteers his or her services to such employer for no monetary compensation.
- (e) "Employer" means an individual person, business, partnership, association, corporation, including a municipal corporation, trust, or any non-profit entity that accepts the provision of services from one or more employees.
- (f) "Enclosed Area" means all space closed in by a roof or other overhead covering of any kind and walls or other side coverings of any kind on at least three sides with appropriate openings for ingress and egress.
- \*(g) "Horse Racing Facility" means an establishment primarily engaged in the racing of horses.
- (h) "Place of Employment" means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including but not limited to, private offices, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, employee gymnasiums, auditorium, libraries, storage rooms, file rooms, mailrooms, employee medical facilities, rooms or areas containing photocopying or other office equipment used in common by employees, elevators, stairways, hallways, factories warehouses, garages, laboratories, taxies, limousines, and company-owned vehicles used for a business purpose. An enclosed area as described herein is "Place of Employment"

without regard to time of day or actual presence of employees. "Place of Employment" only includes private residences, whether single or multifamily, if used as a childcare, adult day care, or health care facility, or if a person uses a private residence in any way otherwise qualifying that person as an employer with respect to the use of that private residence, provided, however, that private residences are exempt from this Chapter to the extent that the person providing the services in providing housecleaning, home maintenance or personal care services in the private residence.

- (i) "Proprietor" means the owner, manager, operator, liquor permit holder, or other person in charge or control of a public place or place of employment.
- (j) "Public Place" means an enclosed area to which the public is invited or in which the public is permitted and includes service lines. A private residence is not a "public place" unless it is used as a childcare, adult day care, or health care facility.
- (k) "Service Line" means an indoor line in which one or more persons are waiting for or receiving service of any kind whether or not the service involves the exchange of money.
- (l) "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant, or other smoking equipment in any manner or in any form. "Smoking" does not include the burning or carrying of incense in a religious ceremony.
- (m) "Smoking materials" means any cigar, cigarette, pipe, weed, plant or other smoking equipment in any form.
- (n) "Work area" means any room, desk, station or other area normally occupied by an employee while carrying out his or her primary work function.
- (o) "Person" means any individual, firm, partnership, association, corporation, company, organization or legal entity of any kind.
- (p) "Outdoor patio" means an outdoor area, open to the air at all times, that is either:
  - (1) Enclosed by a roof or other overhead covering and not more than two walls or other side coverings; or
  - (2) Has no roof or other overhead covering at all regardless of the number of walls or other side coverings.
- (q) "Private Club" means a club as that term is defined in R.C. 4301.01 (B)(13) and that is organized as not for profit.

#### 522.02 PROHIBITIONS.

(a) No proprietor of a public place or place of employment shall allow smoking in said public place or place of employment within the City of Grove City, except as provided in Section 522.03 of this Chapter.

(b) All enclosed areas, including buildings and vehicles owned, leased, or operated by the City of Grove City, shall be subject to the provisions of this chapter.

(c) No person shall smoke in a public place, place of employment or any other area within the City of Grove City, except as provided in Section 522.03 of this Chapter.

(d) All areas immediately adjacent to the ingress and egress of any enclosed area shall be subject to the provisions of this Chapter so as to ensure that tobacco smoke does not enter the enclosed area through entrances, windows, ventilation systems, or other means.

#### 522.03 AREAS WHERE SMOKING IS NOT REGULATED BY THIS CHAPTER.

(a) Notwithstanding any other provision of this Chapter to the contrary, the following areas shall be exempt from the prohibitions in Section 522.02:

- (1) Private residences, except if used as a licensed childcare, adult day care, or health care facility, or if a person uses a private residence in any way otherwise qualifying that private residence as a place of employment, provided however, that private residences are exempt from this Chapter to the extent that the person providing services is providing housecleaning, home maintenance, cable or telephone repair, or personal care services in the private residence.
- (2) Hotel and motel rooms that are rented to guests and are designated as smoking rooms, provided, however, that not more than 20% of rooms rented to guests in a hotel or motel may be so designated.
- (3) Family-owned and operated businesses in which all employees are related to the owner, and offices of self-employed person, in which all employees are related to the self-employed person, but only if the enclosed areas these businesses and offices occupy are not open to the public, are not the same building with other enclosed areas subject to this regulation, and smoke from these businesses and offices does not infiltrate into enclosed areas where smoking is prohibited under the provisions of this Chapter.
- (4) Any home, as defined in Section 3721.10(A) of the Ohio Revised Code, but only to the extent necessary to comply with R.C. 3721.13(A)(18) and rules promulgated according to the Section.
- (5) Outdoor patios as defined in Section 522.01(m) of this Chapter. If the outdoor patio has a structure capable of being enclosed by walls, covers, solid surface fencing, or tents, regardless of the materials or the removable nature of the walls, covers, solid surface fencing, or tents the space will be considered enclosed, when the walls, covers, fences, or tents are in place. All outdoor patios shall be physically separated from an enclosed area. If sliding or folding windows or doors or other windows or doors forms any part of the border to the outdoor patio, the openings shall be closed to prevent the migration of smoke into the enclosed area. If sliding or folding windows or doors or other windows or doors does not prevent the migration of smoke into the enclosed area, the outdoor patio shall be considered an extension of the enclosed area and subject and subject to the prohibitions of this Chapter.
- (6) Private clubs as defined in Section 522.01(n) of this Chapter provided that all of the following apply:
  - (a) That there are no nonmembers present; and
  - (b) That the private club is the holder of a valid D-4 liquor permit pursuant to R.C.4303.17 if alcoholic beverages are to be served; and
  - (c) Provided said private club does not share the HVAC system with a non-smoking establishment and does not operate in a facility which is used as part of a school, recreation center or other facility in which children would be subjected to the residual effects of second-hand smoke.
- \* (7) Any restaurant, bar, or bowling center, which is fully operational at the time of passage of this ordinance may be exempt from the smoking provisions provided:
  - (a) No one under the age of 18 years is permitted;
  - (b) Said establishment does not share an HVAC system with an establishment, which falls under the smoking prohibition;
  - (c) Signage be placed at all entrances stating age limit and that the establishment is a Smoking facility;
  - (d) Said establishment must make application to the Director of Public Safety for a Permit to allow smoking within thirty days from the effective date of this ordinance. The Permit is to be renewed each year, prior to the expiration date of said permit. A Permit Fee of \$20.00 shall

accompany said application. The Permit shall be displayed in a conspicuous place at all times.

- (e) Any restaurant, bar, or bowling center established after the effective date this ordinance shall be non-smoking.
- \* (8) The existing non-profit bingo establishments operated by Grove City Kids Association and Our Lady of Perpetual Help shall be exempt, provided that:
  - (a) No one under the age of 18 years is permitted during bingo operations;
  - (b) Signage be placed at all entrances stating age limit and that the establishment is a Smoking facility;
  - (c) Said establishment must make application to the Director of Public Safety for a Permit to allow smoking within thirty days from the effective date this ordinance. The Permit is to be renewed each year, prior to the expiration date of said permit. A Permit Fee of \$20.00 shall accompany said application. . The Permit shall be displayed in a conspicuous place at all times.
- \* (9) The existing horse racing facility, currently known as Beulah Park, shall be exempt.

#### 522.04 CONSTRUCTION: OTHER APPLICABLE LAWS

(a) This Chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws, and shall be liberally construed so as to further its purposes.

#### 522.05 DECLARATION OF ESTABLISHMENT AS NONSMOKING

(a) Notwithstanding any other provision of this Chapter, the owner, manager, operator, liquor permit holder, or other person in charge or control of an establishment, facility, or outdoor area which does not otherwise qualify as a public place or place of employment may declare such establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 522.06 is posted.

#### 522.06 POSTING OF SIGNS: PROHIBITION OF ASHTRAYS

- (a) In addition to the prohibitions contained in Section 522.02 of this Chapter the proprietor of a public place or place of employment shall comply with the following requirements:
- (1) "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in red circle with a red bar across it) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this Chapter. A sign shall be of sufficient size to be clearly legible to one of normal vision throughout the area it is intended to mark. All signs shall contain a telephone number for reporting violations.
  - (2) Every public place and place of employment where smoking is prohibited by this Chapter shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
  - (3) All ashtrays and other receptacles used for disposing of smoking materials shall be removed from any area where smoking is prohibited by this Chapter unless such ashtrays or receptacles are for ornamental purposes only and are displayed in such a manner so as to preclude their use as receptacles for the disposal of smoking materials.
- (b) This Section shall not be construed to permit smoking in any area in which smoking is prohibited pursuant to Section 533.02.

522.07 ENFORCEMENT.

- (a) This Chapter shall be enforced by the Director of Public Safety, or his designee(s).

522.08 SEVERABILITY.

- (a) If any provision, clause, sentence, or paragraph of this Chapter or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable.

522.99 PENALTIES.

- (a) Whoever violates any provision of this Chapter is guilty of the offense of allowing smoking or smoking in public places or places of employment. Such offense is a misdemeanor of the fourth degree.
- (b) Strict liability is intended for a violation of this Chapter.