



City of Powell, Ohio
ORDINANCE 2018-49
Adopted November 7, 2018

AN ORDINANCE TO ADOPT SECTION 537.19 OF THE CODIFIED ORDINANCES AND TO PROVIDE FOR PREPARATION OF A SUPPLEMENT TO THE MUNICIPAL CODE.

WHEREAS, the duly elected governing authority of the City of Powell, Ohio is authorized by ORC § 715.01 to adopt ordinances relating to its property, affairs and local government;

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

Section 1: That the Code of Ordinances of the City of Powell, Ohio (meaning City Municipal Code) is hereby amended by adding the provisions as provided under Section 5, below.

Section 2: The addition, amendment, or removal of Powell City Code Sections when passed in such form as to indicate the intention of the governing authority of the City of Powell, Ohio to make the same a part of the Municipal Code shall be deemed to be incorporated in the Municipal Code, so that reference to the Municipal Code includes the additions, amendments, and removals.

Section 3: The codifier (meaning the person, agency or organization authorized to prepare the supplement to the Code of Ordinances of the City of Powell, Ohio) is authorized to exclude and omit any provisions of this Ordinance that are inapplicable to the City's Municipal Code.

Section 4: Supplementation of Code.

(a) In preparing a supplement to The City's Municipal Code, all portions of this ordinance which have been repealed shall be excluded from the City's Municipal Code by the omission thereof from reprinted pages.

(b) When preparing a supplement to the City's Municipal Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in this Ordinance and parts of this Ordinance included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the Ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the City's Municipal Code printed in the supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the City's Municipal Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the City's Municipal Code which embody the substantive sections or the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning

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of ordinance sections inserted into the City's Municipal Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the City's Municipal Code.

(c) In preparing a supplement to the City's Municipal Code, the pages of a supplement shall be so numbered that they will fit properly into the City's Municipal Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the City's Municipal Code will be current through the date of the adoption of the latest ordinance included in the supplement.

Section 5: The following section 537.19 of the Municipal Code is new and is hereby approved, adopted and enacted:

New sec. no. 537.19 Expungement of records of human trafficking victim found not guilty or against whom charges are dismissed

(A) As used in this section, "expunge" has the same meaning as in section 2953.38 of the Revised Code.

(B) Any person who is found not guilty of an offense by a jury or a court or who is the defendant named in a dismissed complaint, indictment, or information may apply to the court for an order to expunge the person's official records in the case if the complaint, indictment, information, or finding of not guilty that is the subject of the application was the result of the applicant having been a victim of human trafficking. The application may be filed at any time after the finding of not guilty or the dismissal of the complaint, indictment, or information is entered upon the minutes of the court or the journal, whichever entry occurs first. The application may request an order to expunge official records for more than one offense, but if it does, the court shall consider the request for each offense separately as if a separate application had been made for each offense and all references in divisions (B) to (H) of this section to "the offense" or "that offense" mean each of those offenses that are the subject of the application.

(C) The court may deny an application made under division (B) of this section if it finds that the application fails to assert grounds on which relief may be granted.

(D) If the court does not deny an application under division (C) of this section, the court shall set a date for a hearing and shall notify the prosecutor for the case of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons for believing a denial of the application is justified.

(E) At the hearing held under division (D) of this section, the court shall do all of the following:

(1) If the prosecutor has filed an objection, consider the reasons against granting the application specified by the prosecutor in the objection;

(2) Determine whether the applicant has demonstrated by a preponderance of the evidence that the complaint, indictment, information, or finding of not guilty that is the subject of the application was the result of the applicant having been a victim of human trafficking;

(3) If the application pertains to a dismissed complaint, indictment, or information, determine whether the dismissal was with prejudice or without prejudice and, if the dismissal was without prejudice, whether the period of limitations applicable to the offense that was the subject of that complaint, indictment, or information has expired;

(4) Determine whether any criminal proceedings are pending against the applicant.

(F)(1) Subject to division (F)(2) of this section, if the court finds that the applicant has demonstrated by a preponderance of the evidence that the complaint, indictment, information, or finding of not guilty that is the subject of the application was the result of the applicant having been a victim of human trafficking, the court shall grant the application and order that the official records be expunged.

(2) The court shall not grant the application and order that the official records be expunged unless the court determines that the interests of the applicant in having the official records pertaining to the complaint, indictment, or information or finding of not guilty that is the subject of the application expunged are not outweighed by any legitimate needs of the government to maintain those records.

(G) If an expungement is ordered under division (F) of this section, the court shall send notice of the order of expungement to each public office or agency that the court has reason to believe may have an official record pertaining to the case.

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