

# CITY OF MILWAUKEE

Form CA-43a

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June 12, 2002

Mr. Ronald Leonhardt, City Clerk  
City Hall, Room 205  
200 East Wells Street  
Milwaukee, WI 53202

Dear Mr. Leonhardt:

**RE: PROHIBITION OF SMOKING IN CITY BUILDINGS OR VEHICLES  
ORDINANCE**

This is in response to a communication from the Public Improvements Committee dated May 24, 2002 relative to File No. 901402, an ordinance prohibiting the use of smoking materials in City buildings and vehicles. In reviewing this proposed ordinance, it is our opinion that this ordinance is both legal and enforceable.

Smoking in public buildings is clearly a matter of statewide concern which was addressed by the Clean Indoor Air Act enacted in 1984 as sec. 101.123, Stats. The Clean Indoor Act prohibits smoking in any enclosed indoor area of a city building.

Fortunately, the Clean Indoor Air Act does not prohibit cities from enacting local ordinances prohibiting smoking in city buildings, and the City pursuant to sec. 62.11(5), Stats., is authorized to enact local ordinances which promote the general welfare. In *Rossie v. State of Wisconsin Department of Revenue*, 133 Wis.2d 341, 395 N.W.2d 801 (1986), Stats., the Court of Appeals recognized that non-smokers, including government employees and members of the public, may not avoid government buildings without great

Mr. Ronald Leonhardt

June 12, 2002

Page 2


inconvenience. Furthermore, this proposed ordinance, which prohibits smoking in both city buildings and vehicles is, in our opinion, rationally related to the goal of protecting both city employees and members of the public from the dangers of second hand smoke, and therefore, is a legitimate exercise of the City's police powers.

As always, if you have additional questions or concerns, please feel free to contact our office.

Very truly yours,



GRANT F. LANGLEY  
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