



Legislation Text

File #: 901402, **Version:** 4

901402
SUBSTITUTE 4
84-298-b
THE CHAIR

A substitute ordinance relating to the prohibition of smoking in city buildings or city-owned or leased vehicles.

105-48 cr

This substitute ordinance prohibits smoking in all indoor, enclosed areas of city buildings, including all hallways, waiting areas, rest rooms, cafeterias and private, enclosed offices of city employees and elected officials or in any city-owned or leased vehicles. It also creates a graduated forfeiture for willful violation of the smoking prohibition.

In addition, this ordinance rescinds resolution file number 84-298-b, which approved and implemented the commissioner of public works' comprehensive plan for posting "smoking allowed" signs in areas, rooms and buildings so designated by department and agency heads.

Whereas, Tobacco smoke is a major contributor to indoor pollution, and breathing secondhand smoke is a cause of disease, including lung cancer in nonsmokers; and

Whereas, The simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate the exposure of nonsmokers to environmental tobacco smoke (ETS) nor can ventilation systems remove many of the harmful elements of ETS; and

Whereas, Section 101.123, Wis. Stats., prohibits smoking in any enclosed, indoor area of a city building, with certain exceptions; and

Whereas, Section 101.123, Wis. Stats., does not, however, limit the authority of a city to adopt policies that, complying with the purpose of said section, protect the health and comfort of the public; and

Whereas, Persons who violate the prohibition on smoking in public areas of city buildings have little reason to fear being punished for their actions since, according to a city attorney opinion dated March 23, 1994, police officers cannot issue citations seeking a state forfeiture; and

Whereas, In the same opinion, the city attorney notes that the city has no ordinances providing a penalty for violation of s. 101.123, Wis. Stats.; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1: Section 105-48 of the code is created to read:

105-48. Smoking in City Buildings. 1. DEFINITION. In this section, "city building" means any

building or portion thereof owned or leased by the city, including any enclosed walkway connecting such structures.

2. SMOKING PROHIBITED. No person may carry a lighted cigar, cigarette, pipe or any other lighted smoking equipment in any enclosed, indoor area of a city building, including any hallway, waiting area, rest room, cafeteria, meeting room, lobby or reception area or private, enclosed office of any employe or elected official or in any city-owned or leased vehicle.

3. POSTING OF SIGNS. Persons in charge of city buildings or areas where smoking is prohibited shall post or cause to be posted in a clear and conspicuous manner in all entrances and areas of city buildings "no smoking" signs or international "no smoking" symbols consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.

4. ENFORCEMENT. The police department shall enforce this section.

5. PENALTY. Any person who willfully violates sub. 2 after being advised by a city employe that smoking is prohibited in the area shall be punished by:

- a. A forfeiture not less than \$25 nor more than \$100 for a first violation.
- b. A forfeiture not less than \$100 nor more than \$200 for a second violation within 1 year.
- c. A forfeiture not less than \$200 nor more than \$500 for each additional violation within 1 year.

Part 2. Resolution file number 84-298-b is rescinded.

Part 3. This ordinance takes effect December 1, 2002.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB01330-6

RGP

6/13/02