



## Legislation Text

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**File #: 971078, Version: 0**

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971078  
ORIGINAL  
84-298-b  
ALD. MURPHY  
An ordinance regulating smoking in city buildings.  
105-48 cr  
- Analysis -

This 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. However, smoking shall be permitted in "SMOKING ALLOWED" areas designated by the commissioner of public works and approved by the common council. This ordinance also creates a penalty of \$10 for wilful 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, 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, including policies that are more restrictive than the provisions of s. 101.123; and

Whereas, Section 101.123, Wis. Stats., further provides a penalty of not more than \$10 for violation of the prohibition on smoking in city buildings; and

Whereas, The Commissioner of Public Works and the Buildings and Fleet Director have sought to inform City employees and other persons of the prohibition of smoking in public areas of the City Hall Complex through the use of memoranda to department heads, posting of signs, and verbal notices to persons violating this law; and

Whereas, Despite repeated warnings and notices, persons continue to smoke in various public areas of the City Hall complex; and

Whereas, Persons who violate the prohibition on smoking in public areas of the City Hall Complex 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 ordinance 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 or private, enclosed office of any employee or elected official, except in an area designated by the commissioner of public works and approved by the common council as a "SMOKING ALLOWED" area.

3. PENALTY. Any person who wilfully violates sub. 2 after being advised by a city employee that smoking is prohibited in the area shall forfeit \$10.

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

Part 2. Resolution file number 84-298-b is rescinded.  
APPROVED AS TO FORM

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Date: \_\_\_\_\_  
IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

\_\_\_\_\_  
Office of the City Attorney  
Date: \_\_\_\_\_

LRB97556.1  
JDO  
10/14/97