

2012-0019

**Municipal Court**

Mark F. Nielsen  
Municipal Judge



City Hall Annex  
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Racine, Wisconsin 53403  
262-636-9263  
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February 1, 2012

**COPY**

Greg Holding, President  
Common Council  
Racine City Hall  
730 Washington Avenue  
Racine, Wisconsin 53403

RE: *City of Racine Smoking Ordinance 66-616*

Dear Council President Holding:

The Municipal Judge is instructed by Section 800.037 to designate the deposit schedule for non-traffic and non-boating forfeiture offenses. The judge's designation is subject to approval by the Common Council.

The indoor smoking ordinance, 66-616, adopts the entirety of Section 101.123 as the smoking ordinance. I enclose my designation of the amounts of deposit for the consideration and approval of the common council.

Sincerely,

Honorable Mark F. Nielsen  
Judge, City of Racine

MFN/mb

cc: Robert K. Weber, Esq.  
Chief Wahlen  
Mayor Dickert

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**Judge's Submission on Deposit Schedule Amounts**

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The Municipal Judge is instructed by Section 800.037 to designate the deposit schedule for non-traffic and non-boating forfeiture offenses. The judge's designation is subject to approval by the Common Council.

**I. The Indoor Smoking Ordinance & the State Statute**

The indoor smoking ordinance, 66-616, adopts the entirety of Section 101.123.

Subsection 101.123(2) prohibits smoking in certain places or circumstances. The penalty for violating Section 101.123(2) is found in 101.123(8)(a) and is set at a minimum forfeiture of \$100 and up to \$250.

Subsection 101.123(2m) requires persons in charge of covered venues to:

1. Make every reasonable effort to prevent smoking [101.123(2m)(c)] and
2. Forbids such persons from allowing smoking [101.123(2m)(a)] or
3. Forbids such persons from smoking equipment [101.123(2m)(b)], and
4. Requires the person to call the police if the smoker refuses to desist. [101.123(2m)(d)]

The penalty for violating any of Section 101.123(2m) is found in 101.123(8)(d) and is set at a forfeiture of \$100, except for violations of Section 101.123(2m)(d).

The police are required to give a warning citation on a first offense by a person in charge for failure to call the police on an uncooperative patron under subsection (d) and cannot be assessed more than \$100 total per day for failures to call the police under (d).

## II. Designation of Deposit Amount

I designate as follows and submit the same for approval:

**66-616 Indoor Smoking (\$100-250)**

First offense           \$177   [\$100 + costs]  
Second offense       \$303   [\$200 + costs]

**66-616 Failing to Try to Prevent Smoking, Person in Charge \$177   [\$100 + costs]**

**66-616 Allowing Illegal Smoking, Person in Charge - \$177   [\$100 + costs]**

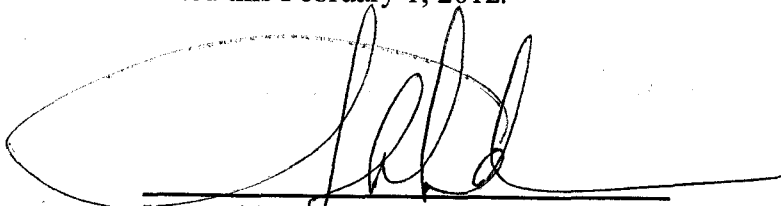
**66-616 Providing Smoking Equipment, Person in Charge- \$177   [\$100 + costs]**

**66-616 Failing to Call Police, Illegal Smoking, Person in Charge**

First Offense - *Warning Required*

Second or subsequent   \$177   [\$100 + costs]

Dated this February 1, 2012.



Honorable Mark F. Nielsen, Judge  
City of Racine Municipal Court