

From: May, Michael
Sent: Tuesday, July 01, 2014 11:43 AM
To: Soglin, Paul; All Alders

Subject: McCullen v. Coakley and Sec. 23.01, MGO

Mayor Soglin and Alders:

Last week, the US Supreme Court issued its decision in *McCullen v. Coakley*, ruling that the Massachusetts law establishing buffer zones around clinics providing abortion services was unconstitutional. The Massachusetts law is different than the recently approved Madison ordinance. The Massachusetts law was an absolute ban on persons approaching within 35 feet of the entrance to a clinic or the driveway to a clinic for purposes of speaking to or leafleting persons in the buffer zone. The City's ordinance was modeled on *Hill v. Colorado*, which allows persons within the buffer zone, but they may not approach within 8 feet of any person without permission in that zone.

The *McCullen* decision did not overrule *Hill*, but the reasoning of the Supreme Court raises significant concerns, in my opinion, about the continued validity of the Madison ordinance. Because of those concerns, the City will not, as of the date of the *McCullen* decision, enforce the provisions of sec. 23.01(2)(b) and (c), MGO, that contain the buffer zone restrictions. Police Chief Koval concurs in this determination.

The City will continue to enforce the provisions of sec. 23.01(2)(a), MGO, which forbids physically obstructing persons attempting to enter health care facilities.

Our office will continue to analyze the impact of *McCullen* and may suggest appropriate amendments to sec. 23.01, MGO.

Please contact me, DCA Lauten, or ACA Ramakrishna if you have further questions.

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