

**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 with 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.

Michael P. May  
City Attorney  
City of Madison  
210 Martin Luther King Jr. Blvd., Rm. 401  
Madison, WI 53703  
608/266-4511  
FAX:608/267-8715  
[mmay@cityofmadison.com](mailto:mmay@cityofmadison.com)

#### PRIVILEGE AND CONFIDENTIALITY NOTICE

This electronic message is intended only for the designated recipient(s). It may contain privileged or confidential information and should not be disclosed to third parties without our express permission. If you are not the intended recipient, you have received this message in error and review, dissemination or copying of this message is prohibited. If you have received this message in error, please notify the sender immediately, delete the original message and destroy any electronic or printed copies of this message. Thank you.