

BODY – LEGISTAR 35013

DRAFTER'S ANALYSIS:

Following the U.S. Supreme Court’s ruling in *McCullen v. Coakley*, No. 12-1168 (June 26, 2014), the City has determined it necessary to amend the recently enacted sec. 23.01, MGO. Most significantly, this amendment removes the protective, so called “buffer” zone, within 100 feet of the entrance to health clinics and 30 feet of the driveway entrance for a health clinic.

Instead of a buffer zone, this ordinance focuses on activities that might hinder a patient’s access to a reproductive health care facility. It prohibits anyone physically and intentionally hindering a person’s entrance or exit from a reproductive health care facility and from injuring or threaten to injure any person obtaining services or providing services at a health care facility. The amended ordinance will be used in conjunction with other ordinances under Chapters 10 and 24 of the Madison General Ordinances (MGO) and traffic ordinances under Chapter 12, MGO, and Wis. Stat. ch. 346.

Additionally, this amendment narrows the scope of facilities covered based on the experiences of the City to only apply at reproductive health care facilities.

This ordinance revises the title of the offense in the bail schedule.

Further analysis is contained in the Report of the City Attorney. This ordinance is being sponsored by the City Attorney pursuant to Secs. 2.05(6)(b) and (c), MGO, which provide for sponsorship of legislation by the City Attorney on “Recommendations and advice of the City Attorney related to litigation in which the City is or is going to become involved” and on “Changes to ordinances and resolutions which may be mandated by state or federal law.”

The Common Council of the City of Madison do hereby ordain as follows:

1. Section 23.01 entitled “Prohibition on Obstructing Entryways to Health Clinics” of the Madison General Ordinances is amended to read as follows:

“23.01 PROHIBITION ON OBSTRUCTING ENTRYWAYS TO REPRODUCTIVE HEALTH CLINICS CARE FACILITIES.

(1) Purpose and Findings. The Common Council recognizes that access to health care facilities for the purpose of obtaining medical counseling and treatment without interference is important to the residents of the City, and that the exercise of a person's right to speak for or against such counseling and treatment, including the right to protest or counsel against certain medical procedures, must be balanced against another person's right to obtain medical counseling or treatment in an unobstructed manner. The City has had instances of persons hindering access to health care, especially at reproductive health care facilities. Therefore, the Common Council finds that this ordinance is necessary to further the City’s significant governmental interests in protecting citizens’ rights to come and go from a reproductive health care facility.

- (2) Restrictions. It shall be unlawful for any person to do any of the following:
- (a) Physically and intentionally obstruct, detain, hinder, impede, or block another person’s entry to or exit from a reproductive health care facility. This applies to any location of ingress and egress to a reproductive health care facility including driveways. Where a reproductive health care facility is located in a multi-use or multi-office building and does not have a separate entrance, this ordinance applies to all entrances to the building.
 - ~~(b) Intentionally approach another person to within eight (8) feet without consent for the purpose of doing any of the following on a public way or sidewalk area within either of the zones listed in sub. (c):~~
 - ~~1. Pass a leaflet or handbill to the person.~~
 - ~~2. Display a sign to the person.~~
 - ~~3. Engage in oral protest, education or counseling with the person.~~

- (c) ~~Zones.~~
1. ~~A radius of one hundred (100) feet from an entrance to a health care facility.~~
 2. ~~A radius of thirty (30) feet from the point where the right-of-way intersects with the curbcut of any private driveway for the property upon which the health care facility is located, if any such point falls outside the zone in sub. (c)1.~~
- (b) ~~Intentionally injure, threaten to injure, or by force or threat of force intimidate a person who:~~
1. ~~Is seeking to obtain or obtaining services at a reproductive health care facility; or~~
 2. ~~Is or has been providing services at a reproductive health care facility.~~
- (3) ~~This section shall not prohibit any person from engaging in lawful speech or picketing which does not obstruct, detain, hinder, impede or block another person's access to a reproductive health care facility or interfere with the delivery of services within a reproductive health care facility.~~
- (34) ~~Definitions.~~ In this section:
- (a) ~~"Reproductive Hhealth care facility" means a place, used by a licensed physician or nurse practitioner to routinely provide medical treatment other than within or upon the grounds of a hospital, where abortions are offered or performed.~~
 - (b) ~~"Entrance" means a location of ingress and egress to a building. Where a health care facility is located in a multi-use or multi-office building and does not have a separate entrance, then the zone in (2)(c)1. applies to all entrances to the building.~~
- (45) ~~Penalty.~~ Any person violating any provision of this ordinance shall be subject to a forfeiture of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1000)."

2. Subdivision (a) of Subsection (3) entitled "Schedule of Deposits" of Section 1.08 entitled "Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended to read as follows:

<u>"Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit</u>
Prohibition on obstructing entryways to <u>reproductive health clinics care facilities.</u>	23.01	\$300, 1st \$500, 2 nd \$750, 3 rd & sub."