

ORDINANCE NO. 9665-23

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA, RELATING TO MEDICAL CLINIC SAFETY; AMENDING THE CODE OF ORDINANCES CHAPTER 28. – STREETS, SIDEWALKS, OTHER PUBLIC PLACES, SECTION –28.10; ESTABLISHING A VEHICULAR SAFETY ZONE, CREATING CIVIL PENALTIES, AND DESCRIBING CITATION PROCEDURES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Clearwater City Council recognizes that access to health care facilities for the purpose of obtaining medical treatment is important for residents and visitors to the City; and

WHEREAS, the exercise of a person's right to protest or counsel against certain medical procedures is a First Amendment activity that must be balanced against another person's right to obtain medical and treatment in a manner authorized by Florida law; and

WHEREAS, On June 24, 2022, the Supreme Court released the decision *Dobbs v. Jackson Woman's Health Organization*, holding that the United States Constitution confers no constitutional right to abortion services, but said rights, if any, may be authorized or guaranteed by individual states; and

WHEREAS, after the release of the decision, the Clearwater Police Department began seeing a rise in aggression and confrontation between individuals seeking abortions, volunteer escorts for the women seeking abortions, and protesters; and

WHEREAS, the Clearwater Police Department has been consistently called upon to respond to Bread and Roses Woman's Health Center located at 1560 S. Highland Ave., Clearwater, FL 33756 to mediate continuing and now escalating confrontation between those individuals and associated groups; and

WHEREAS, the Clearwater Police Department has specifically observed pedestrian protesters entering and repeatedly crossing the driveway of the health center, so as to impede vehicular ingress and egress; and

WHEREAS, occupants of said vehicles are then accosted by the same groups of individuals, frightening and intimidating the occupants even though they have every legal right to enter the clinic; and

WHEREAS, these confrontations have created an increased need for dedicated appropriation of the Clearwater Police Department's finite resources, which are being provided to this one property, to the neglect of law enforcement needs throughout the rest of the patrol district in which the facility is located; and

WHEREAS, targeted trespass warnings to individuals impeding vehicular ingress and egress is not a remedy available by law because the driveway is located on the public right-of-way; and

WHEREAS, targeted arrests for resisting an officer without violence are impractical because the protesters will temporarily comply with an officer's instructions whenever told to vacate the driveway and allow vehicular access, but the protesters re-enter or continue crossing the driveway after the officer leaves the scene and Florida law prohibits officers from arresting the violator(s) for misdemeanor crimes not committed in the officer's presence; and

WHEREAS, the City wants to protect the public in a way that complies with both Florida law and the First Amendment; and

WHEREAS, the City is familiar with the Court's ruling in *Bruni v. City of Pittsburgh*, 941 F.3d 73 (3rd Cir. 2019), in which the Court upheld the City of Pittsburgh's creation of a buffer zone when that City faced similar concerns; and

WHEREAS, the Court determined that the creation of content-neutral buffer zones is subject to intermediate scrutiny; and

WHEREAS, the City of Clearwater has determined that a five-foot buffer zone surrounding the driveway is sufficient to resolve the current difficulties; and

WHEREAS, this buffer zone will ensure the safety of protesters and patients alike, by allowing safe vehicular ingress and egress to and from the clinic; and

WHEREAS, this buffer zone preserves the protesters' ability to make their views known, seen, and heard by persons entering and exiting the clinic, as shown in the pictures and diagrams attached to this ordinance as Exhibit A; now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEARWATER, FLORIDA;

Section 1: Sec. 28.10, Clearwater Code of Ordinances is hereby amended to read as follows:

Section 28.10– VEHICLE SAFETY ZONE FOR BREAD AND ROSES WOMAN'S HEALTH CENTER LOCATED AT 1560 S. HIGHLAND AVENUE.

(1) VEHICULAR SAFETY ZONE. No pedestrian as defined in Florida Statute 316.003(56), or person riding a bicycle as defined in Florida Statute 316.003(4), or person operating any other non-motorized vehicle, shall enter into or cross any portion of the vehicular driveway located at the western entrance to the clinic, or enter that portion of the sidewalk or swale located within five (5) feet north or south of the concrete driveway. This restriction shall be in effect only from Monday through Saturday, beginning 7:00am and ending 6:00pm each day.

This section shall not apply to police and public safety officers, fire and rescue personnel, or other emergency workers in the course of their official business, or to authorized security personnel employees or agents of the hospital, medical office or clinic engaged in assisting patients and other persons to enter or exit the Clinic.

(2) PENALTY. Any person, firm, or corporation who pleads guilty or nolo contendere, or is convicted of violating of this section shall be guilty of a Class III civil infraction pursuant to Section 1.12 of this Code of Ordinances.

Section 2. This ordinance shall take effect immediately upon adoption.

PASSED ON FIRST READING _____

PASSED ON SECOND AND FINAL
READING AND ADOPTED _____

Frank V. Hibbard
Mayor

Approved as to form:

Attest:

David Margolis
City Attorney

Rosemarie Call
City Clerk