REGULAR

NUMBER: 306

TITLE: AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS FOR THE LOCAL IMPLEMENTATION OF THE UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of June 16, 2020, upon motion by Councilmember Dominguez and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Mary Lavelle, City Clerk

APPROVED:

_____
Rich Tran, Mayor

APPROVED AS TO FORM:

_____
Christopher J. Diaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), an international human rights treaty, provides a universal definition of discrimination against women and brings attention to a whole range of issues concerning women's human rights. Countries that ratify CEDAW are mandated to condemn all forms of discrimination against women and girls and to ensure equality for women and girls in the civil, political, economic, social and cultural arenas. The United Nations General Assembly adopted CEDAW in 1979 and President Carter signed the treaty on behalf of the United States in 1980, but the United States Senate has not yet ratified CEDAW; and

WHEREAS, since 1995, state and local jurisdictions have stepped up and passed resolutions in support of CEDAW. Some have implemented ordinances establishing CEDAW principles as law. In 2014, municipalities across the nation began signing onto the Cities for CEDAW Initiative, pledging to step up where the federal government has failed and implement the principles of CEDAW at the local level; and

WHEREAS, indeed, there is a continued need for the City of Milpitas to protect the human rights of women and girls by addressing discrimination, including violence, against them and to implement, locally, the principles of CEDAW. Adherence to the principles of CEDAW on the local level will especially promote equal access to and equity in health care, employment, economic development and educational opportunities for women and girls and will also address the continuing and critical problems of violence against women and girls.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. IMPLEMENTATION OF CEDAW

DEFINITIONS.

As used in this Article, the following words and phrases shall have the meanings indicated herein:

(a) "City" shall mean the City of Milpitas.

(b) "Discrimination against women" shall include, but not be limited to, any distinction, exclusion or restriction made on the basis of sex that has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty by family, community or government.

(c) "Gender" shall mean the way society constructs the difference between women and men, focusing on their different roles, responsibilities, opportunities and needs, rather than their biological differences.

(d) "Human rights" shall mean the rights every individual possesses that are intended to improve the conditions in society that protect each person's dignity and well-being and the humanity of all people.

(e) "Racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

LOCAL PRINCIPLES OF CEDAW.

It shall be the goal of the City to implement the principles underlying CEDAW by addressing discrimination against women and girls in areas including economic development, violence against women and girls and health care. In implementing CEDAW, the City recognizes the connection between racial discrimination, as articulated in the International Convention on the Elimination of All Forms of Racial Discrimination, and discrimination against women. The City shall ensure that the City does not discriminate against women in areas including employment practices, allocation of funding and delivery of direct and indirect services.

The City shall also establish a community task force to implement the principles of CEDAW.

(a) Economic Development.

(1) The City shall take all appropriate measures to eliminate discrimination against women and girls in the City of Milpitas in employment and other economic opportunities, including, but not limited to, ensuring:

(A) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment and the right to receive access to and vocational training for nontraditional jobs;

(B) The right to promotion, job security and all benefits and conditions of service, regardless of parental status, particularly encouraging the appointment of women to decision making posts, City revenue generating and managing commissions and departments, and judicial positions;

(C) The right to equal remuneration, including benefits and to equal pay in respect to work of equal value;

(D) The right to the protection of health and safety in working conditions, including supporting efforts not to purchase sweatshop goods, regular inspection of work premises, and protection from violent acts at the workplace.

(2) The City shall encourage and, where possible, fund the provisions of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child care facilities, paid family leave, family-friendly policies and work-life balance.

(3) The City shall encourage the use of public education and all other available means to urge financial institutions to facilitate women's access to bank accounts, loans, mortgages, and other forms of financial services.

(b) Violence Against Women and Girls.

(1) The City shall take and diligently pursue all appropriate measures to prevent and redress sexual and domestic violence against women and girls, including, but not limited to:

(A) Police enforcement of criminal penalties and civil remedies, when appropriate;

(B) Providing appropriate protective and support services for survivors, including counseling and rehabilitation programs;

(C) Providing gender-sensitive training of City employees regarding violence against women and girls, where appropriate; and

(D) Providing rehabilitation programs for perpetrators of violence against women or girls, where appropriate.

The City shall not discriminate on the basis of race, ethnicity, culture, language or sexual orientation, when providing the above supportive services.

(2) It shall be the goal of the City to take all necessary measures to protect women and girls from sexual harassment in their places of employment, school, public transportation, and any other places where they may be subject to harassment. Such protection shall include streamlined and rapid investigation of complaints.

(3) Prostitutes are especially vulnerable to violence because their legal status tends to marginalize them. It shall be the policy of Milpitas that the Police Department diligently investigate violent attacks against prostitutes and take efforts to establish the level of coercion involved in the prostitution, in particular where there is evidence of trafficking in women and girls. It shall be the goal of the City to develop and fund projects to help prostitutes who have been subject to violence and to prevent such acts.

(4) The City shall ensure that all public works projects include measures, such as adequate lighting in accordance with Occupational Safety and Health Organization (OSHA) standards for the type of construction work being performed, to protect the safety of women and girls.

(5) It shall be the goal of the City to fund public information and education programs to change traditional attitudes concerning the roles and status of women and men.

(c) Health Care.

(1) It shall be the goal of the City to take all appropriate measures to eliminate discrimination against women and girls in the field of health care in order to ensure, on a basis of equity, information about and access to adequate health care facilities and services, according to the needs of all communities, regardless of race, ethnicity, culture, language, and sexual orientation, including information, counseling and services in family planning.

(2) It shall be the goal of the City to ensure that women and girls receive appropriate services in connection with prenatal care, delivery, and the post-natal period, granting free services where possible, as well as adequate nutrition during pregnancy and lactation.

(d) In undertaking the enforcement of this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

IMPLEMENTATION OF THE PRINCIPLES OF CEDAW IN MILPITAS (COMMUNITY TASK FORCE)

(a) Within six months of the effective date of this Ordinance, the City shall establish a Community Task Force to implement the principles of CEDAW in the Milpitas community.

(b) The Task Force members will represent the community at large and the composition of the Task Force shall at a minimum, include the following:

(1) One member with subject matter expertise in Economic Development

(2) One member with subject matter expertise in Violence Against Women and Girls
(3) One member with subject matter expertise in Healthcare
(4) One youth member from the club "Girl UP" from Milpitas High School (to be chosen and voted on by the members of "Girl Up" to represent the youth in the community).
(5) One Council Liaison member (to be appointed by the Mayor with concurrence of the Council)
(6) One Staff Liaison member (to be appointed by the City Manager)

(c) Further details about the Task Force can be established through the adoption of a resolution of the City Council.

SECTION 3. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 4. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.