ORDINANCE NO. 7,224–N.S.

ADDING CHAPTER 13.20 TO THE BERKELEY MUNICIPAL CODE ADOPTING THE OPERATIVE PRINCIPLES OF THE UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That a new Chapter 13.20 is hereby added to the Berkeley Municipal Code to read as follows:

Chapter 13.20

ADOPTING THE OPERATIVE PRINCIPLES OF THE UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

13.20.010 Purpose.
13.20.020 Findings.
13.20.030 Definition of discrimination against women.
13.20.040 Local principles of the Convention on the Elimination of All Forms of Discrimination Against Women.
13.20.050 Economic development.
13.20.060 Violence against women.
13.20.070 Health care.
13.20.080 Private right of action.
13.20.090 Severability.

13.20.010 Purpose.

The purpose of this Chapter is to protect the public health, safety and welfare. It does this by seeking to eliminate all forms of discrimination against women within the City.

13.20.020 Findings.

The City Council of the City of Berkeley finds and determines as follows:

A. 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 the human rights of women. The United Nations General Assembly adopted CEDAW in 1979 and it became effective as an international treaty on September 3, 1981 after the twentieth country had ratified it. President Carter signed the treaty on behalf of the United States in 1980, but the United States Senate has yet to ratify CEDAW.

B. Nations that ratify CEDAW are mandated to condemn all forms of discrimination against women, and to ensure equality for women in the civil, political, economic, social and cultural arenas. One-hundred eighty seven nations have agreed to be bound by the provisions of CEDAW. However CEDAW does not contemplate its adoption or implementation by governmental entities other than nations, especially governmental entities whose powers are more limited than those possessed by nations. Accordingly

the scope and effect of this Chapter are necessarily narrower than the legislation contemplated by CEDAW for adoption by nations.

C. At the regular meeting of July 12, 2004, the Peace and Justice Commission heard testimony from concerned citizens and discussed the operative principles of CEDAW. The discussion demonstrated that women continue to face discrimination in the areas of education, economic development and employment, violence against women, and health care. On July 20, 2004, the City Council adopted Resolution No. 62,617–N.S., supporting the ratification of CEDAW and requesting the City Manager to prepare an ordinance incorporating the operative principles of CEDAW into the Berkeley Municipal Code.

D. On November 16, 2010, the City Council adopted Resolution No. 65,102–N.S, directing the City Manager to "prepare an ordinance for Council consideration that adopts the operative principles of the Convention on the Elimination of all forms of Discrimination Against Women into the Berkeley Municipal Code."

E. There is a continuing need for the City to protect the human rights of women by addressing discrimination and violence against women and to locally support 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, economic development, educational opportunities, and employment for women, and will also address the continuing and critical problem of violence against women.

F. There is a need to strengthen effective national and local mechanisms, institutions and procedures, and to provide adequate resources, commitment and authority to:

1. Advise on the impact of all government policies on women;
2. Monitor the situation of women comprehensively; and
3. Help formulate new policies and effectively carry out strategies and measures to eliminate discrimination.

13.20.030 Definition of discrimination against women.

Discrimination against women is any distinction, exclusion or restriction made on the basis of gender which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women of human rights and fundamental freedoms in political, economic, social, cultural, civil and other fields, irrespective of their marital status and on an equal basis with men.

13.20.040 Local principles of the Convention on the Elimination of All Forms of Discrimination Against Women.

A. The City shall ensure that it does not discriminate against women in any area including employment, allocation of funding and delivery of direct and indirect services.

B. The City pledges to take joint and separate action, as appropriate, in cooperation with the County of Alameda, the State of California, the United States Government and the United Nations for achievement of the principles underlying the Convention on the Elimination of All Forms of Discrimination Against Women.

13.20.050 Economic development.

A. It is the policy of the City that employers within the City take all appropriate measures to eliminate discrimination against women in employment and other economic opportunities. This includes but is not limited to ensuring that women enjoy:

1. The same employment opportunities as men;

2. The same access to promotion, job security and all benefits and conditions of service, regardless of parental status;

3. Equal remuneration, including benefits, and to equal pay with respect to work of equal value; and

4. The same protection of health and safety in working conditions.

B. The City shall encourage the provision of necessary supportive social services to enable parents to combine family obligations with work responsibilities and participation in public life, including but not limited to the establishment and development of a network of child care facilities, paid family leave, and family-friendly policies.

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

13.20.060 Violence against women.

A. It is the policy of the City to take and diligently pursue all feasible measures to prevent and redress sexual and domestic violence against women, which may include, but are not limited to, where appropriate:

1. Police enforcement of criminal penalties;

2. Providing protective and supportive services for survivors, including counseling and rehabilitation programs;

3. Providing gender sensitive training of city employees regarding violence against women; and

4. Providing rehabilitation programs for perpetrators of violence against women.

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

C. It shall be the policy of the City that all necessary measures be taken to protect women from sexual harassment in their places of employment, school, public transportation, and any other places where they may be subject to harassment.

D. Because prostitutes are especially vulnerable to violence because their legal status tends to marginalize them, it shall be the policy of the City to diligently investigate violent attacks against prostitutes and make efforts to determine the level of coercion involved in individual cases of prostitution, in particular where there is evidence of trafficking in women and girls.

E. 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.

13.20.070 Health care.

A. It is the policy of the City that there be no discrimination against women in the field of health care, regardless of race, ethnicity, culture, language, or sexual orientation.

B. It shall be the policy of the City that women receive appropriate services in connection with prenatal care, delivery, and postpartum care, as well as adequate nutritional services during pregnancy and lactation.

13.20.080 Private right of action.

Nothing in this Chapter is intended to or shall be interpreted to authorize a right of action against the City.

13.20.090 Severability.
If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

Section 2. Posting
Copies of this Bill shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on January 31, 2012, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.

At a regular meeting of the Council of the City of Berkeley held on February 14, 2012, this Ordinance was adopted by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.

Tom Bates, Mayor

ATTEST: Mark Numainville, CMC, Acting City Clerk

Date signed: February 16, 2012