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(ITEM) A resolution/ordinance by Supervisors Dimitrijevic, Wasserman, and Alexander, creating Chapter 17.37 of the Milwaukee County Code of General Ordinances, relative to providing an accommodating and supportive environment for employees and the public who breastfeed, by recommending adoption of the following:

AN AMENDED RESOLUTION/ORDINANCE

WHEREAS, the Affordable Care Act amended Section 7 of the Fair Labor Standards Act (FLSA) of 1938 (29 U.S.C. 207) to require that employers provide reasonable break time to nursing mothers to express milk for up to one year after the birth of a child; and

WHEREAS, the FLSA requires that the break does not have to be paid and that the space be somewhere other than a bathroom that is “shielded from view and free from intrusion from coworkers and the public” (29 U.S.C. 207(r)); and

WHEREAS, the laws created by the FLSA in regard to breastfeeding employees is a minium standard and employers can do more than the minimum to support employees; and

WHEREAS, the State of Wisconsin also supports and promotes breastfeeding and implemented legislation in 2010 via Section 253.16 Wisconsin State Statutes, which establishes the right of a mother to breastfeed her child in any public or private location where the mother and child are otherwise authorized to be, including that in such a location, no person may prohibit a mother from breastfeeding her child, direct a mother to move to a different location to breastfeed her child, direct a mother to cover her child or breast while breastfeeding, or otherwise restrict a mother from breastfeeding her child; and

WHEREAS, the American Academy of Pediatrics (AAP) states that the risks of not breastfeeding are so conclusive that breastfeeding “should not be considered as a lifestyle choice but rather as a basic health issue”; and

WHEREAS, the AAP reports that breastfeeding leads to significantly better health outcomes including reduced rates of Sudden Infant Death Syndrome, celiac disease, obesity, allergies, inflammatory bowel disease, diabetes, childhood leukemia, and lymphoma; and

WHEREAS, the AAP recommends exclusively breastfeeding for the first six months and the continuation of breastfeeding for one year; and

WHEREAS, the World Health Organization recommends the continuance of breastfeeding until the child reaches two years of age and beyond; and

47 WHEREAS, the United States Department of Health and Human Services,
48 Office on Women's Health, reports that supporting nursing women at work:
49

- 50 • Provides a 3:1 return on investment based on the following factors:
 - 51 ○ Retention of experienced employees
 - 52 ○ Reduced sick time of both mothers and fathers for children's illnesses
 - 53 ○ Lower health care and insurance costs
- 54 • Helps recruit good employees
- 55 • Lowers absenteeism rates
- 56 • Improves productivity
- 57 • Builds employee morale and loyalty

58
59 ; and
60

61 WHEREAS, beyond supporting employees' right to breastfeed, it is important to
62 encourage and promote breastfeeding among the general public by providing space for
63 nursing mothers to comfortably breastfeed and/or express their milk; and
64

65 WHEREAS, Milwaukee County (the County) already has several freestanding
66 lactation suites located at the County Zoo and General Mitchell International Airport that
67 offer a clean, comfortable, secure place for women who need to pump or nurse in
68 private; and
69

70 WHEREAS, there is still more the County can do to support and promote
71 breastfeeding among County employees and the general public; and
72

73 WHEREAS, the Committee on Health and Human Needs, at its meeting of
74 June 15, 2016 recommended adoption of this amended resolution/ordinance
75 (vote 5-0); now, therefore,
76

77 BE IT RESOLVED, it is the policy of Milwaukee County (the County) to support
78 and encourage the practice of breastfeeding by providing adequate accommodations
79 and a supportive environment for employees and the public that breastfeed; and
80

81 BE IT FURTHER RESOLVED, that the Facilities Management Division,
82 Department of Administrative Services, is authorized to determine which County
83 properties would provide the greatest public benefit by having a site for breastfeeding
84 and pumping and should report back to the Milwaukee County Board in the
85 September 2016 cycle with its recommendations; and
86

87 BE IT FURTHER RESOLVED, the County Board hereby creates Chapter 17.37
88 of the Milwaukee County Code of General Ordinances by adopting the following:
89

90 **AN AMENDED ORDINANCE**

91
92 The County Board of Supervisors of the County of Milwaukee does ordain as
93 follows:

94
95 **Section 1.** Chapter 17.37 of the Milwaukee County Code of General Ordinances is
96 created as follows:

97
98 **17.37. - Reasonable break time and space for nursing mothers.**

- 99
100 **(1)** Reasonable break time required.
101 Milwaukee County shall provide all of the following for an employee who is
102 breastfeeding her child for up to two years after the birth of her child:
103 (a) A reasonable break time to express breast milk for the child each time the
104 employee has a need to express milk
105 (b) A place, other than a bathroom, that has a table, chair, and an electrical
106 outlet available for use, that is shielded from view and free from intrusion
107 from coworkers and the public for the employee to comfortably express
108 breast milk.
109 (c) Whenever possible the place chosen should be a dedicated space for
110 nursing mothers, if the space cannot be dedicated then it must be made
111 available immediately upon request of the nursing mother.
112 (d) Access to running water, and a refrigerator for the storage of breast milk.
113
114 **(2)** Paid/unpaid break time; maintenance of health care coverage.
115 (a) Working with the nursing mother, the supervisor or departmental
116 administrator is required to provide reasonable break times. If possible,
117 break times may be taken during regularly scheduled meal and rest
118 breaks.
119 (b) Nursing mothers must be paid for breaks otherwise given to non-nursing
120 employees.
121 (c) If the nursing mother needs more time than her regular scheduled breaks,
122 her supervisor should make a good faith effort to permit the nursing
123 mother to make up time. If no reasonable opportunity exists for a nursing
124 mother to make up time, the break time will not be paid.
125 (d) If an employee's health care coverage is dependent on the number of
126 hours that the employee works, Milwaukee County shall treat any unpaid
127 break time taken by the employee to express breast milk as paid work
128 time for purposes of determining that eligibility.
129
130 **(3)** Prohibited acts.
131 (a) No person may interfere with, restrain, or deny the exercise of the right of
132 an employee who is breastfeeding her child to take reasonable break time
133 to express milk as provided under sub. (1).
134 (b) No person may discharge or discriminate against an employee in
135 promotion, in compensation, or in the terms, conditions, or privileges of

136 employment for taking reasonable break time to express breast milk for
137 her child as provided in sub. (1), opposing a practice prohibited under this
138 section, filing a complaint or attempting to enforce any right under this
139 section, or testifying or assisting in any action or proceeding to enforce
140 any right under this section.

141
142 **(4)** *Enforcement.*
143 An employee who's right to take reasonable break time to express breast milk for
144 her child as provided under sub. (1) is interfered with, restrained, or denied in
145 violation of sub. (3) (a) or who is discharged or discriminated against in violation
146 of sub. (3) (b) may file a complaint with the Human Resources Department, and
147 the department shall process the complaint in the same manner that
148 employment discrimination complaints are processed.

149
150 **Section 2.** The provisions of this ordinance shall be effective upon passage and
151 publication.

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