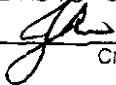


INTRODUCED BY COUNCIL MEMBER _____

APPROVED AS TO FORM AND LEGALITY



CITY ATTORNEY

ORDINANCE NO. 12294 C.M.S.

**ORDINANCE SUSPENDING THE BURMA (MYANMAR) DIVESTMENT
ORDINANCE, OAKLAND MUNICIPAL CODE, CHAPTER 2.04, ARTICLE
III, SECTIONS 2.04.180 THROUGH 2.04.280**

WHEREAS, the citizens of the City of Oakland recognize ~~the~~ moral responsibility of communities to take positive steps to end human **rights** abuses and support legitimately elected governments; and

WHEREAS, the United States Supreme Court ruled, in Crosby v. National Foreign Trade Council (S.C.U. No. 99-474, June 19, 2000), that Congress has preempted the field of imposing sanctions on Burma (Myanmar), and local entities may not, therefore, adopt sanctions in conflict with sanctions adopted or authorized by Congress; and

WHEREAS, pursuant to congressional authorization, the President has issued an Executive Order imposing specific sanctions on financial transactions involving Burma, but is prohibited ~~from imposing~~ sanctions on contracts for the sale or purchase of goods or services, because such sanctions have been explicitly exempted ~~from~~ sanctions by Congress; and

WHEREAS, certain restrictions against deposit and investment, on the other hand, may be valid under Crosby, because Congress has authorized the President to impose such sanction and he has so acted; and

WHEREAS, in May of 1996, the Oakland City Council adopted Ordinance No. 11885 C.M.S., which set forth a divestment policy which imposes sanctions directly and indirectly against Burma by prohibiting investments in or contracting with the government of Burma (Myanmar), in addition to companies organized under Burma (Myanmar), laws and companies simply doing business ~~in~~ Burma; and

WHEREAS, Oakland's ban against contracting with "companies doing business ~~in~~ Burma (Myanmar), primarily applies to companies engaged in sales or distribution in Burma (Myanmar), or engaged in providing goods or services to private or public entities located in Burma (Myanmar); and

WHEREAS, these provisions are in apparent conflict with federal law and would be preempted and unenforceable; and

WHEREAS, the City Attorney has recorn-ended suspension of the Burma (Myanmar) Ordinance contracting sanctions and revision of the investment sanctions to reflect those authorized by Congress and the President;

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

1. That Oakland's "Burma Ordinance", Oakland Municipal Code, Chapter 2.04, Article III, Sections 2.04.180 through 2.04.280, be hereby suspended.

I hereby certify that the foregoing is a full, true and correct copy of an Ordinance passed by the City Council of the City of Oakland on November 28, 2000

CEDA FLOYD

City Clerk and Clerk of the Council

Per Onetha Middleton Deputy