



TO: Elizabeth Pauli, City Manager
FROM: Diane Powers, Director, Office of Equity and Human Rights
COPY: Community Vitality and Safety Committee
PRESENTER: Andreta Armstrong, Human Rights Manager
SUBJECT: Gender Neutral Labeling of Single-occupancy Restrooms
DATE: November 8, 2018

PRESENTATION TYPE:

Request for Ordinance

SUMMARY:

The Office of Equity and Human Rights (OEHR) staff have been working with the Human Rights Commission and the Pride at Work group to propose that gender neutral labeling be required for all existing or new single-occupancy restrooms in places of public accommodation, facilities of the City, and facilities of taxing authorities located within the City, known as public restrooms. The requirement would amend Tacoma Municipal Code, Chapter 1.29 – Human Rights Commission, to add a new section effective after 180 days. This code amendment would align with the City’s Equity and Empowerment Initiative and Chapter 1.29, which prohibits discrimination based on gender identity. The request is for the Committee to sponsor an Ordinance for full Council consideration.

BACKGROUND:

Pursuant to Ordinance 25352, passed on April 23, 2002, the City amended Chapter 1.29 to include certain protections against discrimination based on gender identity including, among other protections, in public accommodations. Pursuant to Resolution No. 39019, adopted on September 30, 2014, the City implemented the Equity and Empowerment Initiative to support, among several goals, human rights and opportunities for all persons within the City to achieve their full potential, which would include ensuring full access for transgender and gender non-conforming individuals to governmental services and facilities in the City.

Pride at Work, which represents LGBTQ union members and allies has identified that bathroom access is a constant worry for transgender and non-binary people: 59% of transgender people avoided using a public restroom in the past year because they were afraid of confrontations. Access to bathrooms promotes health and safety. Having gender neutral single-occupancy restrooms allows transgender and non-binary people to have more options for restroom facilities without the fear of being verbally harassed while accessing a restroom. Bainbridge Island already has put a similar code in place (attached).

ISSUE:

Transgender and non-binary people have to worry about where they are going to use the restroom on a daily basis. 59% of respondents to the National Center for Transgender Equality’s 2015 US Transgender Survey avoided using a public restroom in the last year, and nearly one



third (32%) limited the amount they ate and drank to do so, which can create other health problems. One in ten respondents reported that someone denied them access to a restroom in the past year, while 12% reported being verbally harassed while accessing a restroom.

ALTERNATIVES:

The Committee could choose to accept, reject or modify the recommendation for an ordinance.

FISCAL IMPACT:

Fiscal impact would be minimal, since it would involve purchasing and installing gender neutral signs on existing or new single-occupancy restrooms in City facilities. Enforcement outside of City facilities could be absorbed through the Human Rights Commission's discrimination complaint process.

RECOMMENDATION:

Recommend amending Chapter 1.29 of the Tacoma Municipal Code to add a new section requiring gender neutral labeling of existing or new single-occupancy restrooms to ensure transgender and non-binary people have access to a restroom on a daily basis without fear of verbal harassment or denied access. This amendment would further the City's efforts to prevent discrimination based on gender identity.



PRIDE@WORK

Lesbian, Gay, Bisexual,
and Transgender Labor and our Allies.

Bathroom access is a workplace health and safety issue for LGBTQ people too

At a glance:

- Bathroom access is a constant worry for transgender and non-binary people: 59% of transgender people avoided using a public restroom in the past year because they were afraid of confrontations.¹
- Access to bathrooms is a condition for a safe and stable work environment. OSHA mandates that every employee must have access to a bathroom that corresponds with their gender identity.
- Likewise, union contracts should have nondiscrimination language that includes “gender identity and expression” as a protected class. Denying someone access to a bathroom is discrimination and our contracts can protect workers with this simple change.
- “Bathroom bills” such as North Carolina’s HB2 are popping up in several states. These bills discriminate against transgender and non-binary people and labor should oppose them strongly. Sometimes, like in North Carolina, these bills seek to preempt local laws, such as nondiscrimination protections and even local wage laws.

Unlike many of their cisgender counterparts, transgender and non-binary people have to worry about where they are going to use the restroom on a daily basis. 59% of respondents to the National Center for Transgender Equality’s 2015 US Transgender Survey avoided using a public restroom in the last year, and nearly one third (32%) limited the amount they ate and drank to do so. Eight percent reported a urinary tract infection, kidney infection, or another kidney-related problem as a result of avoiding the bathroom. These fears are not unfounded: one in ten respondents reported that someone denied them access to a restroom in the past year, while 12% reported being verbally harassed while accessing a restroom.

Bathroom access is an employee health and safety issue. According to the Occupational Health and Safety Administration (OSHA), “Every employee, including transgender employees, should have access to restrooms that correspond to their gender identity.”

Unions have the power, and responsibility, to ensure that transgender and non-binary working people have access to safe bathrooms in their workplace. Even in those states that do not cover bathroom access under law, **a union contract that includes non-discrimination on the basis of gender identity and expression is a legally enforceable method of ensuring that trans and non-binary workers have safe access to bathrooms.**

¹ NCTE, US Transgender Survey, pg.15

Bathroom bills: Legalizing Hate and Cementing Income Inequality

North Carolina's infamous HB2 "Bathroom" bill merged the issues of bathroom access and workplace discrimination. Even though transgender and non-binary people are the public face and have been the direct target of these bills, their effects can extend far greater.

- The bill prohibited cities to expand upon state laws regulating workplace discrimination, use of public accommodations, minimum wage standards, and other business issues. That means that Charlotte could not pass a minimum wage standard that was greater than the state minimum wage.
- It quietly shortened the window for filing claims of discrimination on the basis of race, religion, color, national origin, biological sex, or handicap from three years to one.
- These effects would disproportionately impact African-Americans, women, and immigrants, along with the trans and non-binary individuals that became the public face of the bill.

19 states have considered restricting bathroom access based on biological sex. While each attempt is slightly different, it is clear that **bathroom bills have become the policy of choice for anti-LGBTQ and anti-worker lawmakers**. Organized labor has the power to stand against these bills in state-houses across the country.

What can labor unions do?

Labor unions have always been a vehicle for civil rights. Bathroom bills like NC HB2 are attacks on the fundamental freedoms and rights that labor unions and their allies have won over the past century. In addition to preventing individuals from doing something as mundane and human as using the bathroom, they also prevent cities from raising minimum wages and renegotiate hard-earned protections against racial and gender-based discrimination.

- **A collective bargaining agreement is enforceable in every state.** We can protect our members by ensuring our contracts have strong nondiscrimination language that prohibits discrimination the basis of sexual orientation or gender identity and expression.
- In many communities, labor's voice is powerful. When our leaders speak out publicly about the harm bathroom bills and unsafe access to bathrooms will do to workers, it can have a dramatic impact on the debate around this type of legislation. **We must stand up and speak out for safe and inclusive workplaces.**
- Labor's legislative advocacy is in support of our members' needs. **It is vital that we add opposition to these bathroom bills to our legislative portfolios in every lawmaking body where we have a voice.** Labor has legislative advocates – both paid and volunteer – in every state and there are LGBTQ members of every union.
- **Pride at Work staff is always ready to provide support on this or other LGBTQ-related topics.** – We can help ensure your contract language is inclusive of LGBTQ working people and uses the most up to date language to assure your members they will not be discriminated against when using the restroom. We can also review talking points to help hone your message when talking to the media or lobbying state and local government. Other resources include: trainings for leadership, staff, or rank-and-file members; convention, conference, or meeting speakers and panelists; and much more.

ORDINANCE NO. 2018-07

AN ORDINANCE of the City of Bainbridge Island, Washington, establishing a gender inclusive restroom requirement as part of a new Title 7, Human Rights, of the Bainbridge Island Municipal Code.

WHEREAS, the City's Comprehensive Plan Vision 2036 specifically states that, "We are an optimistic, forward looking and welcoming people – open to new ideas, industrious business people, new and traditional culture, and people of all ages and backgrounds"; and

WHEREAS, transgender and gender non-conforming individuals face violence, discrimination, and lack of access at rates far exceeding other members of the community; and

WHEREAS, rolling back federal protections for transgender individuals puts the most vulnerable members of the LGBTQ community more deeply in danger; and

WHEREAS, anti-transgender organizations in Washington State have actively sought to restrict, via referendum, an individual's rights to their gender identity limiting their access to public restroom facilities by their birth gender; and

WHEREAS, the City has a duty to protect the rights and dignity of all its residents.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN, AS FOLLOWS:

Section 1. A new Title 7, Human Rights, is added to the Bainbridge Island Municipal Code.

Section 2. A new Chapter 7.01 is hereby added to Title 7 to read as follows:

Chapter 7.01 Access to Public Restrooms and Public Facilities

7.01.010 Requirements for single-occupant restrooms

- A. Single-occupant restrooms in places of public accommodation, facilities of the City, and facilities of taxing districts located on Bainbridge Island shall not be restricted to a specific sex or gender identity and shall use appropriate signage to indicate such restrooms are designated for use by any person, regardless of sex or gender identity.
- B. Individuals or entities owning or operating restrooms covered by this chapter shall have 180 days from the effective date of this ordinance to comply by replacing existing signs on the exterior of single-occupant restrooms restricting use to a single gender with signs indicating that they are for use by all genders.

7.01.020 Individual rights.

An individual shall have the right to use a public restroom or a public facility that best conforms to their chosen gender identity and expression.

7.01.030 Enforcement.

- A. The Code Enforcement Officer shall investigate alleged violations of this chapter and shall have such powers and duties in the performance of these functions as are defined in this chapter, Chapter 1.26 BIMC, and otherwise necessary and proper in the performance of the same and provided for by law. Procedures for reporting violations of this chapter shall be determined by Director's rule.
- B. The Director is authorized and directed to promulgate rules to enforce this chapter.
- C. If, after 180 days from the effective date of the ordinance, it is determined that an individual or entity owning or operating a public restroom or public facility covered by this chapter is not in compliance with the requirements set out in this chapter, the Code Enforcement Officer shall enforce this chapter in the manner specified by Chapter 1.26 BIMC.

7.01.040 Definitions.

"Appropriate signage" means signage that indicates that single-occupant restrooms are not restricted to a single gender. Examples include, but are not limited to, signs with the words "washroom," "restroom," "all-gender restroom," "gender-neutral restroom," or "unisex," or that use images to indicate that restrooms are accessible to all genders.

"City" means the City of Bainbridge Island.

"Code Enforcement Officer" means a city official charged with the responsibility to ensure compliance with all state, city, and zoning codes and ordinances as adopted by the City Council.

"Director" means the Director of Planning and Community Development.

"Gender identity" means a person's gender-related identity, appearance, or expression, whether or not traditionally associated with one's biological sex or

one's sex at birth, and including a person's attitudes, preferences, beliefs, and practices pertaining thereto.

"Place of public accommodation" means any place, licensed or unlicensed, where the public gathers, congregates, or assembles for amusement, recreation or public purposes, or any place, store, or other establishment that supplies goods or services with or without charge to the general public. "Place of public accommodation" includes, but is not limited to, the following types of services or facilities; schools, parks, hotels, or other establishments which provide lodging to transient guests; restaurants, cafeterias, lunchrooms, lunch counters, soda fountains or other facilities principally engaged in selling or offering for sale food for consumption upon or off the premises; public restrooms; motion picture houses, theatres, concert halls, sport arenas, stadiums, or other places of exhibition or entertainment; bowling alleys, pool halls, arcades, and amusement parks; retail establishments; transportation carriers; barber shops and beauty shops; bars or taverns or other facilities engaged in selling or offering for sale alcoholic beverages for consumption upon the premises; and public burial facilities.

"Public Facility" means an area in a facility of the City, a facility of a taxing district located on Bainbridge Island, or a place of public accommodation, which is customarily gender-segregated and is open for use by the public or by the customers, members, officers, or employees of the City, a taxing district, or an individual or entity owning or operating the place of public accommodation. "Public Facilities" include, but are not limited to, locker rooms.

"Public Restroom" means a restroom located in a facility of the City, a facility of a taxing district located on Bainbridge Island, or a place of public accommodation, which is open for use by the public or is open for use by the customers, members, officers, or employees of the City, a taxing district, or an individual or entity owning or operating the place of public accommodation. "Public Restrooms" include, but are not limited to, single-occupant restrooms.

"Respondent" means any person who is alleged or found to have committed a violation of regulations established in this chapter.

"Single-occupant restroom" means any toileting facility that is designed for use by one individual at a time or by one individual being assisted by another individual.

"Taxing District" means any municipal corporation now or hereafter existing, including, but not limited to, school districts, metropolitan park and recreation districts, and fire districts.

Section 4. BIMC 1.26.010 is amended to read as follows:

The provisions of this chapter shall apply to enforcement of BIMC Titles 16 and 18, ~~and Chapter 15.04 BIMC, Chapter 7.01 BIMC,~~ and specified provisions outlined in BIMC Title 20. For purposes of this chapter, such titles and chapters shall be referred to as “the applicable ~~chapters and titles~~ titles and chapters of this code.”

Section 5. BIMC 1.26.020.A is amended to read as follows:

A. It shall be the duty of the director of planning and community development to enforce the applicable ~~chapters and titles~~ titles and chapters of this code. The director may call upon other city departments and officers to assist in enforcement. Whenever used in this chapter the term “director” includes the code enforcement officer or other official duly authorized by the director.


Section 6. This ordinance shall take effect and be in force five (5) days from its passage and publication as required by law.

PASSED BY THE CITY COUNCIL this 27th day of March, 2018.

APPROVED BY THE MAYOR this 27th day of March, 2018.


Kol Medina, Mayor

ATTEST/AUTHENTICATE:


Christine Brown, City Clerk

FILED WITH THE CITY CLERK:	February 9, 2018
PASSED BY THE CITY COUNCIL:	March 27, 2018
PUBLISHED:	March 30, 2018
EFFECTIVE DATE:	April 4, 2018
ORDINANCE NUMBER:	2018-07