

ORDINANCE NO. 2018-07

AN ORDINANCE of the City of Bainbridge Island, Washington, establishing a gender inclusive bathroom 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 citizens.

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 Requirements for single-occupant restrooms in public facilities.

7.01.01 General Provisions

All existing and newly-built single occupant restrooms in facilities of the city and of all Bainbridge Island taxing districts, including the Bainbridge Island School District, Bainbridge Island Metropolitan Park & Recreation District, and Bainbridge Island Fire Department, shall not be restricted to a specific sex or gender identity and shall use appropriate signage to indicate such facilities are designated for use by any person, regardless of sex or gender identity.

7.01.02 Requirements for single-occupant restrooms in places of public accommodation.

- A. Single-occupant restrooms in places of public accommodation shall not be restricted to a specific sex or gender identity and shall use appropriate

signage to indicate such facilities are designated for use by any person, regardless of sex or gender identity.

- B. Entities 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.

7.01.03 Individual rights.

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

7.01.04 Enforcement.

- A. The department 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 and otherwise necessary and proper in the performance of the same and provided for by law.
- B. The director is authorized and directed to promulgate rules to enforce this chapter.
- C. The department may investigate any violations of this chapter. Individual reporting of a violation of this chapter should include a statement of the date, location, and entity or entities responsible for such violation.
- D. If, after 180 days from the effective date of the ordinance, it is determined that a covered entity is not in compliance with the requirements set out in this chapter, the director shall, by service of an advisory letter by first-class mail or electronic mail, notify the respondent of the violation and advise of the opportunity for voluntary compliance by replacing existing restroom signage with appropriate signage. The respondent shall update restroom signage within 30 days of the date of the advisory letter.
- E. If the respondent refuses to comply within 30 days of the date of the advisory letter, the director may issue a notice of violation. This notice of violation will include a requirement to pay a civil penalty of \$125. All or part of this civil penalty may be waived by the director if proof of compliance with this chapter is submitted to the city within 15 days of the date of the notice of violation. Proof of compliance shall be determined by director's rule. Failure to comply within 15 days of the date of the notice of violation shall be

considered a subsequent violation. Subsequent violations shall result in a civil penalty of \$500.

- F. A respondent may appeal the violation by requesting a contested hearing before the Hearing Examiner in writing within 15 days of the date of the notice of violation. If the respondent fails to timely appeal the violation, the violation and accompanying civil penalty shall be final and enforceable. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or city holiday, the period shall run until 5 p.m. on the next business day.
- G. Contested hearings shall be conducted pursuant to the procedures for hearing contested cases contained in chapter ____ and the rules adopted by the Hearing Examiner for hearing contested cases. The director shall have the burden of proof by a preponderance of the evidence before the Hearing Examiner. Failure to appear for a requested hearing will result in an order being entered finding that the cited respondent committed the violation stated in the director's notice of violation. For good cause shown and upon terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order entered upon a failure to appear.
- H. In all contested cases, the Hearing Examiner shall enter an order affirming, modifying, or reversing the violation.
- I. If a respondent fails to comply with any final order issued by the director or the Hearing Examiner, the director may refer the matter to the city attorney for the filing of a civil action in superior court, the Bainbridge Island Municipal Court, or any other court of competent jurisdiction to enforce such order.

7.01.05 Definitions.

“All-gender restroom” means toileting facilities, either single room or with multiple stalls, which are designated for use by any person or persons, regardless of sex or gender identity.

“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.

“Covered entity” means any place of public accommodation in Bainbridge Island.

“Department” means the Department of Planning and Community Development of the City of Bainbridge Island.

“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; public elevators; 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.

“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 person at a time.

Section 3. 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 _____ day of _____, 2018.

APPROVED BY THE MAYOR this _____ day of _____, 2018.

Kol Medina, Mayor

ATTEST/AUTHENTICATE:

Christine Brown, City Clerk

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