

ERC Inclusive Restrooms Working Group

Report to the City of Milwaukee Equal Rights Commission

July 24, 2019

Summary

In April 2019, the Equal Rights Commission of the City of Milwaukee established a working group comprised of Commissioners, City of Milwaukee staff, and community representatives. The Inclusive Restroom Working Group (IRWG) was charged with developing a plan to implement inclusive restrooms in City of Milwaukee buildings and in places of public accommodation throughout the city as a whole. Such restrooms are intended to serve all residents, city employees, and visitors to the city without prejudice in terms of sex, gender identity, gender expression, self-definition, ability, or marital or family status.

The IRWG met four times in June and July 2019 to explore barriers to implementing inclusive restrooms in city buildings, identify opportunities for implementation, and establish a policy framework for creating inclusive restrooms throughout the city. The working group developed a set of issues to be addressed during implementation, strategies for overcoming those issues, and a draft resolution for the City of Milwaukee Common Council to consider, detailing the city's reasons for committing to inclusive restrooms and directing city departments to develop and implement a plan to create inclusive restrooms in city buildings and all places of public accommodation.

Background and Working Group Charge

In 2018, the Equal Rights Commission heard testimony from Milwaukee residents detailing through personal experience the consequences of the lack of adequate public restrooms on health and well-being for transgendered persons. The ERC directed the Legislative Reference Bureau to produce a report on US cities that had made efforts to remedy similar situations. That report, accepted in April 2019, detailed the experiences of peer cities and others that had addressed creating inclusive restrooms. See attachment 1. The experiences of 12 US cities were described in the report, a small proportion of the more than 200 US cities and several that have addressed this issue.

With the acceptance of the LRB report, on April 24, 2019, the ERC acting chair established a Select Committee on Inclusive Restrooms. Subsequently renamed the Inclusive Restroom Working Group, the committee was charged with developing an implementation plan for creating inclusive restrooms in city-owned buildings and in places of public accommodation across the city. Findings and a recommendation were requested by July 31, 2019. See attachment 2 for the letter commissioning the IRWG.

Committee Membership and Meetings

Nine individuals participated in the working group:

1. Nathan Guequierre, chair - ERC
2. Jennifer Bennett - ERC
3. Jessica Langill - DOA
4. Mike Krause - DPW
5. Vanessa Kuehner - DNS
6. Rebecca Rabatin - DOA
7. Jen Murray – UWM LGBT Resource Center
8. Shelley Gregory - FORGE
9. Elle Halo – Diverse & Resilient
10. Sharon Robinson - DOA (*ex officio*)

The IRWG met four times in June and July 2019 to develop an implementation plan, addressing three issues:

1. Short term, practical: potential for conversion of existing single stall bathrooms in City of Milwaukee buildings to inclusive bathrooms as soon as possible
2. Longer term, practical: potential for conversion of some and eventual most multi stall bathrooms in City of Milwaukee buildings to inclusive bathrooms.
3. Longer term, policy: enable the conversion of restrooms in all places of public accommodation to inclusive bathrooms.

IRWG Process and Findings

The Inclusive Restroom Working Group addressed each of these issues with an approach focusing on “barriers to implementation,” identifying technical, political, funding, and communications hurdles that would need to be surmounted to implement inclusive restrooms in Milwaukee, and brainstorming solutions to those barriers. The results of this process are summarized in the following sections.

Creating Inclusive Single Stall Restrooms in City-Owned Buildings

Presumably, the City of Milwaukee could designate all single stall restrooms in City-owned buildings as inclusive merely by changing signage and ensuring that locks are functional. Rather than being labeled for Men or Women, the restrooms would be labeled with non-presumptive descriptive language such as “Toilet,” “Restroom,” or with a neutral, descriptive symbol. In practice, such a conversion would be complicated by a number of technical and communications challenges.

Barrier: Building code requires most restrooms to be designated for “men” or “women.”

The building code adopted by the state of Wisconsin is based on the International Building Code, with certain exceptions or modifications approved by the state legislature. A total number of stalls must be provided for each currently recognized gender (whether in single- or multi-stall restrooms or a combination) based on building use and occupancy. The code could preclude re-labeling of restrooms if it resulted in the availability of too few “men’s” and “women’s” stalls.

Discussion: This issue is complex. The international codes were updated in 2018 to require gender neutral designation of single stall restrooms. Wisconsin hasn’t adopted the 2018 code yet, and it may be some time before that happens. The approved 2021 updates will allow for the creation of multi-stall inclusive restrooms, where each toilet is enclosed in a floor-to-ceiling compartment and sinks are located in a separate area. In the meantime, legislation has been

drafted in Madison that would allow the creation of multi-stall inclusive restrooms under certain conditions.

The IRWG requested of the LRB a report on the applicability of state codes statutes on creating inclusive restrooms. That report indicated several potential avenues for pursuing action. Furthermore, any single stall restrooms in public or office areas of city-owned buildings that are “surplus” to requirement based on occupancy could be immediately signed with inclusive signage.

Solution: DPW has begun to identify all single stall restrooms in publicly accessible spaces in city-owned buildings and compared them to occupancy requirements. Several are surplus to requirements and may be designated as inclusive once proper signage has been determined and appropriate locks are installed (locks that note “Vacant” and “Occupied” are preferred.) The initial draft list – evaluation is still underway and will eventually include single-stall restrooms in office areas of city buildings as well – is found in attachment 3.

The LRB report indicated a provision in state building code (SPS 362.2962(2)(b)) that appears to allow the redesignation of single-stall restrooms as inclusive restrooms as long as the total number of stalls available meets the minimum total requirements based on occupancy. See attachment 4 for the LRB report.

Furthermore, a provision in state building code was identified that allows for the use of future code updates if applied to an entire and complete project. It was suggested that still-to-be-adopted 2018 International Code could be applied to a project the purpose of which is change restroom signage. The inclusive signage would meet the updated code. DNS plan reviewers were asked if they could approve such a project, and determined that they could. This would allow the conversion of single stall restrooms in city-owned buildings that are currently designated for one gender to be marked inclusive and be available to people of any gender.

Next Steps: DNS and DPW will work with DOA to verify the applicability of state code. Following approval of a common council resolution (see “Authorization” discussion below) and communication from DOA, DPW will identify a pilot building for a project to change restroom signage, with a program of communication and education to precede the redesignation.

Barrier: DPW needs authorization to change restroom signage.

In order to take action to create inclusive restrooms in city-owned buildings, the Department of Public Works will need official authorization along with coordination with the Department of Administration.

Discussion: DPW is responsible for maintenance and operations of a large proportion of city buildings. Creating inclusive single stall restrooms in both the public and office areas of these buildings is part of the city’s larger commitment to a Milwaukee that is free of all forms of discrimination. Therefore, any action by DPW to change restroom signage should be viewed as a component of this larger commitment.

Solution: Working with ERC and DOA, the Inclusive Restroom Working Group has drafted a resolution to be considered for adoption by the Common Council. This resolution (draft found in attachment 5) outlines the city’s commitment to pursuing an inclusive restroom policy for city buildings and for inclusive restrooms in all places of public accommodation city wide. The resolution will a) make a statement to the public about the city’s commitment to inclusion; b) build support for future initiatives that will require financial resources; c) enable transparent monitoring of progress; and direct city departments to take specific actions to implement

inclusive restrooms. The resolution notes the reasons for developing a new policy, to include health, equity, peer city activity, etc.

With a resolution in place, the DOA can initiate communication with DPW to both undertake the immediate creation of single stall inclusive restrooms in city-owned buildings, along with developing a policy that future construction and renovation projects include both single and multi-stall inclusive restrooms, and for developing a broader policy to enable the creation of inclusive restrooms in all places of public accommodation as applicable throughout the city.

Next Steps: Following a report to the ERC and authorization to move forward, members of the IRWG will meet with Common Council members to build support for the resolution. This effort would target adoption of the resolution in September 2019.

Barrier: There are many options for signage to designate inclusive restrooms, but no language seems to be preferred.

Many signs have been used across the United States and elsewhere to indicate the status of restrooms in terms of gender, and little consensus seems to have emerged on what language or symbols are most effective and non-discriminatory for all users.

Discussion: Many options are available to designate restrooms as inclusive, using both words and symbols. The IRWG has determined that the most universally understood option is desirable for the city of Milwaukee, using imagery and/or words that imply no prejudice of any kind and that can be understood by both English and non-English speakers.

Solution: Ideally, signage will simply indicate through images what is found behind the restroom door: toilet, sink, baby changing station, etc. Such imagery will not state or imply who is or is not welcome to use the restroom (i.e. no pictograms of people in pants, skirts, or half-and-half iconography). If words are used, "Restroom" is preferred. A preferred door lock will include an indicator showing whether the restroom is or is not occupied.

In order to facilitate understanding of the changes in restroom use, temporary signage is desirable. This signage will make a statement regarding the availability of the restroom for all users, without prejudice or calling out any particular group of users. Language on the sign should be something like: This restroom is available to everyone.

Next Steps: With approval of the ERC, the IRWG will meet to determine desired signage. This effort may include interviews or a survey of the broader Milwaukee community to determine preferences.

Barrier: City staff and the general public may not understand (and may oppose) changes to restroom signage.

Changes to signage that create inclusive restrooms of single stall facilities in city-owned buildings may be disconcerting for some users and be perceived as disruptive to regular patterns of use.

Discussion: Designating single stall restrooms in city buildings as inclusive will not reduce the availability of restrooms for anyone. In fact, it may increase overall availability. However, the IRWG recognizes that any changes to these facilities can be perceived as interruptive and potentially threatening.

Solution: Changing restroom signage should be complemented by an education and communication effort. Outreach to the Common Council will include an explanation of the goals of the working group, which can form the foundation of a broader outreach effort. At a

minimum, city employees will be notified of pending changes to restroom signage along with an explanation of the city's goals for inclusion. Opportunities to provide feedback and opinion must be provided. Finally, changes to the city's restrooms signage practice or policy should be clearly and proactively communicated to the public. During a past ERCs listening session for transgender residents, people expressed significant concerns about public backlash when ERC extended non-discrimination protections to places of public accommodation. In particular, community members expressed fear of hostility and reprisal when accessing public restrooms. Community members repeatedly expressed, in very strong language, the need for comprehensive education both of business owners and of the public at large before any such changes are communicated and/or implemented.

Next Steps: With approval of the ERC, the IRWG will meet with member of the ERC's Communications Committee to develop a communications plan around this effort. The plan will be implemented with the aid of DOA and others.

Creating Inclusive Multi-Stall Restrooms in City Buildings

City-owned buildings include many multi-stall restrooms. Inclusive multi-stall restrooms are typically designed with private toilets separated with floor-to-ceiling dividers providing complete privacy (ie. no gaps between dividers), each labelled as described for single stall facilities above. Each stall includes a lock. Lavatories (sinks) and other facilities such as baby changing stations should be provided in a commonly accessed area.

Discussion: Creating inclusive restrooms in multi-stall restrooms requires greater effort and expense than merely adjusting signage. The IRWG recommends that city policy be developed to direct DPW and other city entities to create inclusive restrooms whenever the opportunity arises. In practical terms, this will happen during renovation or new construction.

Solution: Following the common council resolution described above, DOA and DPW will collaborate to develop and articulate a policy to create inclusive restrooms wherever possible in conjunction with renovation or new construction for city-owned buildings. The ultimate objective of this policy would be that all restrooms in all city owned buildings are inclusive as described above.

Next Steps: The Common Council resolution articulates the city's goals around the creation of inclusive restrooms. With ERC approval, the IRWG will work with DOA and DPW to develop a specific policy statement for renovation and new construction projects to create inclusive restrooms as a matter of course.

Creating Inclusive Single Stall Restrooms in all Places of Public Accommodation

Chapter 109 of the City of Milwaukee code describes a city that is free from all discrimination. Consistent with this vision, all restrooms in all places of public accommodation would be available to any resident, worker, or visitor to the city, with no restrictions or expectations of "appropriate" use. In practical terms, however, achieving this vision will take time and will have costs that must be considered.

Discussion: Privately owned businesses falling under the category of "places of public accommodation" are required to meet the provisions of Chapter 109, the city's equal rights

code. In practical terms, it may be possible not to require, but to at least make possible, the provision of inclusive restrooms in all places of public accommodation. This would enable the re-signing of single stall restrooms as inclusive. Ultimately, it would be the vision of the IRWG that all restrooms in places of public accommodation, both single- and multi-stall, would be inclusive.

Solution: Places of public accommodation that provide single stall restrooms should be encouraged to redesignate those restrooms using the inclusive signage described above. In most cases, such provisions are allowed under the state building codes. DOA will work with DNS, the ERC and the IRWG to develop of program to communicate this initiative to business owners, along with information about appropriate language. This effort could be coordinated with inspection activities.

Next Steps: Following the adoption of a city resolution, DNS should develop the appropriate policy with the IRWG and the ERC's Communications Committee.

Monitoring and Implementation

This report includes a number of action items for various entities. The IRWG requests that the Equal Rights Commission constitute the working group as an ongoing body to monitor these activities and work with partners in city government and others to implement them. This committee would continue to meet at regular intervals and would report to the ERC.

Attachments

- Attachment 1: "Gender Neutral Bathrooms," Legislative Reference Bureau Report 173158, January 2019.
- Attachment 2: Letter of Commission, "Select Committee on Inclusive Restrooms," April 2019.
- Attachment 3: Single stall restrooms in city-owned buildings and occupancy requirements; analysis as of July 2019. Evaluation is ongoing.
- Attachment 4: "Relevant Bathroom Building Codes," Legislative Reference Bureau Report 174603, July 2019.
- Attachment 5: Draft Common Council Resolution on Inclusive Restrooms.