

APPROVED
03-15-2017

**BOARD OF RECREATION
AND PARK COMMISSIONERS**

BOARD REPORT

NO. 17-076

DATE March 15, 2017

C.D. All

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: CONSIDERATION OF DRAFT ORDINANCE THAT WOULD AMEND LOS ANGELES MUNICIPAL CODE SECTION 63.44 IN ORDER TO PROTECT THE CIVIL RIGHTS OF TRANSGENDER PERSONS

AP Diaz _____ V. Israel _____
R. Barajas _____ N. Williams _____
*H. Fujita _____



General Manager

Approved _____
As Amended _____

Disapproved _____

Withdrawn _____

RECOMMENDATION

1. Review the attached report by the Office of the City Attorney and attached draft ordinance on this subject in preparation for presenting comments, if any, to the City Council when the matter is considered.
2. ~~Consider requesting that the City Council, when it meets to consider the draft ordinance, add language to mitigate the fiscal impact of the draft ordinance on the Department of Recreation and Parks (RAP) should the Council act to adopt the draft ordinance.~~

SUMMARY

Subsection F of Section 63.44 of the Los Angeles Municipal Code (LAMC) states "No person over eight (8) years of age shall enter or use any restroom in a park designated for persons of the other sex."

At the request of the City Council (Council File 17-0228), the Office of the City Attorney has submitted a draft ordinance to Council which, if adopted, would amend Subsection F of LAMC Section 63.44 as follows: "In any bathroom, locker room, changing or dressing area in a Park or Park building or structure, no Person over eight years of age shall enter or use any facilities designated exclusively for a Person of the other gender except that a transgender Person has the right to use any bathroom, including a gender-segregated multi-occupancy bathroom, locker room, changing or dressing area consistent with his or her gender identity, regardless of the transgender Person's assigned sex." The draft ordinance also contains an "urgency clause" whereby the Council would, upon adoption, declare the ordinance necessary "in order for the City of Los Angeles to protect the civil rights of transgender Persons."

In early March the Office of the City Attorney requested that, pursuant to Council Rule 38, the Board of Recreation and Park Commissioners review the draft ordinance in order to present comments, if any, directly to Council at such time it considers the matter.

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The draft ordinance will expand upon existing legislation with respect to the use of toilet facilities, restrooms, or bathrooms.

Assembly Bill (AB) 1732, effective March 1, 2017, mandates that all single-user toilet facilities in any local government agency be identified as an all-gender toilet facility. The author of AB 1732 sponsored this bill, in part, because he believes restricting access to single-user restrooms by gender disproportionately burdens the LGBT community and others. While AB 1732 is specific to single-user toilet facilities (the draft ordinance addresses multi-occupancy restrooms), there is other existing legislation.

Section 51(b) of the State of California Civil Code, also known as the Unruh Civil Rights Act, outlaws discrimination in business establishments of every kind on numerous bases, including on the basis of "sex"; states that "sex" includes a person's gender; states that "gender" includes a person's gender identity and gender expression; and defines "gender expression" as a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth. This legislation makes prohibiting transgender people from using a restroom for the gender with which they identify discriminatory.

~~It is noted that Civil Code Section 51 specifies no construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever, beyond what is otherwise required by other provisions of law, to any new or existing establishment, facility, building, improvement, or any other structure, was contemplated or intended to be required by Civil Code Section 51. Staff recommends the Board consider requesting the Council to incorporate such language into the draft ordinance for the purpose of ensuring the draft ordinance, if adopted by Council, can be implemented without significant monetary cost to RAP.~~

This Report was prepared by Harold T. Fujita, Director, Human Resources Division.

FISCAL IMPACT STATEMENT

The draft ordinance amending Subsection F of Section 63.44 of the Los Angeles Municipal Code is not anticipated to have a significant impact on RAP's General Fund if the Council incorporates the above recommended language.

LIST OF ATTACHMENTS

1. Report by the City Attorney dated February 27, 2017, regarding a draft ordinance amending Subsection F of Section 63.44 of Chapter VI of the Los Angeles Municipal Code to allow for transgender rights in any bathroom, locker room, changing or dressing room in a park (City Attorney Report No. R17-0063)
2. Draft Ordinance amending Subsection F of Section 63.44 of the Los Angeles Municipal Code which was approved as to form and legality by the Office of the City Attorney on February 27, 2017



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 17 - 0 0 6 3

FEB 27 2017

REPORT RE:

**DRAFT ORDINANCE AMENDING SUBSECTION F OF SECTION 63.44 OF
CHAPTER VI OF THE LOS ANGELES MUNICIPAL CODE TO ALLOW FOR
TRANSGENDER RIGHTS IN ANY BATHROOM, LOCKER ROOM, CHANGING OR
DRESSING AREA IN A PARK**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. This draft ordinance amends Subsection F of Section 63.44 of the Los Angeles Municipal Code to protect the civil rights of transgender individuals when using public bathrooms, locker rooms and changing or dressing areas in parks.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Recreation and Parks, the Los Angeles Police Department and the Department of Public Works with a request that all comments, if any, be presented directly to the City Council when this matter is considered.

The Honorable City Council
of the City of Los Angeles
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If you have any questions regarding this matter, please contact Senior Assistant City Attorney Valerie Flores at (213) 978-8130. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

DM:VLF:ac
Transmittal

ORDINANCE NO. _____

An ordinance amending Subsection F of Section 63.44 of the Los Angeles Municipal Code to allow for transgender rights in any bathroom, locker room, changing or dressing area in a park.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Subsection F of Section 63.44 of the Los Angeles Municipal Code is amended to read as follows:

F. In any bathroom, locker room, changing or dressing area in a Park or Park building or structure, no Person over eight years of age shall enter or use any facilities designated exclusively for a Person of the other gender except that a transgender Person has the right to use any bathroom, including a gender-segregated public multi-occupancy bathroom, locker room, changing or dressing area consistent with his or her gender identity, regardless of the transgender Person's assigned sex.

Sec. 2. Urgency Clause. The City Council finds and declares that this ordinance is required for the immediate protection of the public peace, health and safety for the following reason: in order for the City of Los Angeles to protect the civil rights of transgender Persons. The Council, therefore, with the Mayor's concurrence, adopts this ordinance to become effective upon publication pursuant to Los Angeles City Charter Section 253.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members, at its meeting of _____.

HOLLY L. WOLCOTT, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
VALERIE L. FLORES
Senior Assistant City Attorney

Date 2/27/17

File No. _____