




MEMORANDUM

TO: Mayor and City Council

CC: Spencer Cronk, City Manager
J. Rodney Gonzales, Assistant City Manager

FROM: Denise Lucas, Director 
Development Services Department

DATE: October 28, 2019

SUBJECT: **Response to Resolution No. 20190619-093 related to diaper changing stations (CIUR 2170)**

On June 20, 2019, Council passed Resolution No. 20190619-093 directing the City Manager to *work with the community and business stakeholders and departments throughout the City including, but not limited to, Development Services, Building Services, Austin Public Health, and Austin Code to make the following advancements towards the goal of ensuring universal, gender-neutral access to at least one safe, sanitary, and convenient diaper changing station on each of a building's floor levels containing a public restroom.* The resolution also directed the City Manager to:

- *Draft an ordinance amending City Code to require the provision of changing stations at the time of new construction or major renovation of non-City facilities with mercantile and assembly uses.*
- *Prepare a feasibility report with options and potential exceptions for extending the requirement for the provision of changing stations, where not excessively burdensome, to all existing facilities with mercantile and assembly uses.*

This memo provides a summary of the response to the resolution.

Ordinance

An ordinance to amend City Code Chapter 4-16 (Commercial Facilities) to add regulations for diaper changing stations is scheduled to be presented for council approval on November 14, 2019.

Stakeholder Engagement

The Development Services Department (DSD) worked in conjunction with Austin Public Health and Austin Code to address this resolution. DSD invited the following stakeholders to participate in a series of stakeholder meetings to obtain feedback on the ordinance and to discuss the feasibility of extending the requirements: DSD's "commercial" stakeholders list, Austin Independent Business Alliance, Greater Austin Asian Chamber of Commerce, Greater Austin Hispanic Chamber of Commerce, Greater Austin Black Chamber of Commerce, Greater Austin LGBT Chamber of Commerce, and Greater Austin Chamber of Commerce.

DSD sent email invitations to the aforementioned stakeholders with additional outreach conducted through their member newsletters. Two stakeholder meetings were held in August 2019 specifically to gather feedback on the draft ordinance and feasibility study. DSD also conducted outreach through social media platforms. In addition, the council resolution, draft ordinance, and feasibility study were presented as part of

DSD's quarterly stakeholder meeting on September 17, 2019. Despite extensive outreach efforts, limited interest was garnered from the stakeholders.

Findings

Feedback was gathered from the participants who attended the August stakeholder meeting. Due to limited attendance, strong conclusions cannot be made, however concerns emerged that helped form our recommendations. Regarding the feasibility of extending the requirement for the provision of changing stations to existing non-City facilities, stakeholders and staff believe: (1) It would be difficult to ascertain which existing facilities would be affected, and (2) enforcement could create a hardship on business owners.

Determining Use

The City's AMANDA database contains information on the main occupancy use for structures that have been permitted through the City of Austin. The database cannot be queried for minor occupancy uses within a structure, only the main occupancy use. It would be difficult to determine which existing facilities have mercantile and assembly uses. Rather, it would only be feasible to determine which facilities have mercantile or assembly as the main occupancy use. Therefore, in order to determine where the extension of the requirement would apply, the City would have to rely on complaint-based reporting or self-reporting by business owners.

Accessibility Exceptions

The Texas Department of Licensing and Registration (TDLR) provides direction on architectural barriers. The agency's Technical Memorandum TM 2013-15 dated June 1, 2013, addresses minimum clearance requirements for fixed counter and fold-out diaper changing stations. The space requirements in this memorandum could preclude the installation of diaper changing stations in many existing restrooms that were not designed with additional space because the installation would present an obstruction to accessible use. For this reason, the proposed ordinance includes an exception for buildings in which special or structural limitations of the public restroom will not accommodate a compliant diaper changing station.

Austin Code raised concerns with enforcement of the requirement to add diaper changing stations in existing non-City facilities that may qualify for the exception. Eligibility for this exception is determined during the permitting process. Code inspectors could issue violations for existing facilities that are not in compliance with the diaper changing station requirement. Business owners would be required to obtain a building permit in order to resolve the violation. A business owner who received a violation would then have to follow the permitting process and possibly receive a determination that the building meets the exception and that adding the diaper changing station is not required. The resulting impact would be unintended time delays and added costs to the business owner.

Conclusion

Based on the difficulty in determining applicability to existing buildings and the potential hardship to building owners, we determined that it would be burdensome to administer and enforce extending the requirement for the provision of changing stations to existing non-City facilities with mercantile and assembly uses.

Should you have any questions, please contact Beth Culver, Building Official / Acting Assistant Director, at 512-974-3111 or Beth.Culver@austintexas.gov.