

The Code and Practice of Toilets in the United States of America

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Abstract

The paper will examine the current state of code and practice of public toilets in the United States of America. There are numerous health concerns associated with limited access to public toilets, resulting in both physical and psychological difficulties. The paper will draw upon both the U.S. Department of Labor Occupational Safety and Health Administration (OSHA) toilet regulations and the model State building codes to examine the current state of affairs. It will further document the weakness of these regulations and codes to protect the need of the general public to have access to public toilets. Currently, there are OSHA regulations dictating that employees must be allowed to use restroom facilities; however, once employees leave the workplace they are no longer under any protection allowing them access to a restroom. All public buildings are subject to building codes indicating how many restrooms must be in the building, but there is no enforcement that the restrooms must be made available to either customers or the general public. The paper will examine specific situations where public restrooms have been made available to determine the successes and failures of such programs, and suggest improved standards to meet basic physical and psychological needs of the general public with regard to the availability of public toilets.

Keywords

Public Restroom; Public Toilet; Legislation; Law; Regulation

1 Paper

Many people suffer either intermittent or chronic medical conditions that cause them to frequently need to use a restroom. These persons hesitate to travel or they avoid outdoor activities that put them out of range of toilet facilities. This situation is not only

inconvenient, but life altering. These otherwise productive individuals are limited in their choice of work locations, in their participation in physical fitness activities, and to where and how they travel by the limited availability of public toilet facilities. In the United States, laws exist to protect the health of those who need to void when away from home, but these regulations lack sufficient scope and authority to comprehensively address the need for toilets in all public areas.

Free and easy access to toilets is imperative

Little has been written in the popular press about the health effects of the lack of access to public toilets. The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has established laws citing the responsibility of an employer to make toilets available to employees in the workplace. OSHA has compiled the following to support its regulations:

The sanitation standard is intended to ensure that employers provide employees with sanitary and available toilet facilities, so that employees will not suffer the adverse health effects that can result if toilets are not available when employees need them. Individuals vary significantly in the frequency with which they need to urinate and defecate, with pregnant women, women with stress incontinence, and men with prostatic hypertrophy needing to urinate more frequently. Increased frequency of voiding may also be caused by various medications, by environmental factors such as cold, and by high fluid intake, which may be necessary for individuals working in a hot environment. Diet, medication use, and medical condition are among the factors that can affect the frequency of defecation.

Medical studies show the importance of regular urination, with women generally needing to void more frequently than men. Adverse health effects that may result from voluntary urinary retention include increased frequency of urinary tract infections (UTIs), which can lead to more serious infections and, in rare situations, renal damage (Nielsen, A. Waite, W., "Epidemiology of Infrequent Voiding and Associated Symptoms," *Scand J Urol Nephrol Supplement* 157). UTIs during pregnancy have been associated with low birthweight babies, who are at risk for additional health problems compared to normal weight infants (Naeye, R.L., "Causes of the Excess Rates of Perinatal Mortality and the Prematurity in Pregnancies Complicated by Maternity Urinary Tract Infections," *New England J. Medicine* 1979; 300(15); 819-823). Medical evidence also shows that health problems, including constipation, abdominal pain, diverticuli, and hemorrhoids, can result if individuals delay defecation (National Institutes of Health (NIH) Publication No. 95-2754, July 1995). (1)

Enforcement concerns with existing codes

Employers in the United States now conform to the OSHA regulations regarding the availability of restrooms to their employees, and so while at work one should have free and easy access to a toilet. Once a person leaves their place of employment they are no longer covered by OSHA regulations and fall into no-man's-land, making it difficult for many Americans to be gone from home or work for too long.

Many cities citing cost or crime have closed their public toilet facilities. The public most likely is expected to use the facilities of mercantile establishments. Unfortunately it is a policy of many businesses that restrooms are for customers only, and often businesses will even tell customers that they have no public restrooms at all.

Metroped is a non-profit organization that has started the Public Restroom Initiative (PRI), an advocacy coalition for the many people who hesitate to participate in outdoor activities or who avoid travel that puts them out of range of toilet facilities. Metroped often receives letters from people frustrated by the lack of available toilets while out in public. One shopper with Interstitial Cystitis was in a store when she had a sudden bladder spasm that left her gasping in pain. She asked the manager to use the restroom and was told no. The shopper explained that she had a medical condition and a medic alert card and still the manager declined her request. This shopper was buying \$200 worth of merchandise from this store and still they would not allow her to use the restroom facilities. Once she raised her voice and mentioned a recent surgery, fellow customers came to her defense and after an agonizing five minutes the manager grudgingly allowed the shopper to use the restroom.

Another wrote, "I had a situation yesterday where I needed to use the restroom badly and the manager of the store wouldn't let me use it. I have ulcerative colitis. So I had to go very bad. I defecated myself. That was the most embarrassing thing to happen to me."

Countless parents tell stories of children suddenly needing to relieve themselves, such as in this mother's letter:

I had a very upsetting situation yesterday. I was in a [name deleted] store. It was a stand-alone building, not in a mall. It was cold and rainy and I lost my car keys. My husband was on his way to get me when my 3 year old said he needed to go to the potty. The store refused to let us use their facility due to company policy. About 4 minutes later, my child urinated in his pants and on the floor. This was a large store and it is hard for me to believe that they are not legally supposed to have a public facility. This was in Raleigh NC. What is the legality of this situation?

This question has been asked countless times, and actually the answer lies somewhere in a gray area. Let's now turn to what is legislated in the US, and how these codes are enforced. As noted above, for employees at the work place access to building toilet facilities is generally covered by well-enforced Federal Regulations. For customers or visitors to a business establishment, toilet access is covered mostly at the state and local level. A few states and some municipalities have, or are considering, laws requiring 'customer' restroom access. More broadly, State Building Code typically covers building restroom access at non-food business establishments. Most states adopt the same or similar 'National Model Consensus Code'. Typically this code requires that all buildings have restrooms and that all occupants be allowed to use the restroom. When a person enters a business establishment, they are an occupant. Locked restrooms are acceptable as long as all occupant requests to use the toilet facilities are honored.

While the Code is typically adopted at the state level, Building Code is most often enforced at the local level. Violation is often an administrative matter (i.e. not criminal) and is typically handled by a Municipal Commercial Building Code Enforcement Office. A complaint leads to an inspection of the facility. Any Code violations found may lead to warnings, fines or the closing of the business until the violation is resolved. Municipal commercial code enforcement persons prefer citing violations they can inspect. They typically lack the interest or forte to follow up on a 'not allowed to use' complaint.

One provision of the Americans with Disabilities Act (ADA) regulations also needs to be strengthened. While ADA rules provide well-defined accessibility standards when a structure is built or renovated, these guidelines don't require that there be a restroom. Some outdoor toilet facilities are simply closed when challenged to meet ADA accessibility requirements. Requiring accessibility for the 'physically challenged' is of no value in those cases where the guidelines are satisfied by removal.

Public toilets in mass transit systems

The Building Code adopted by most municipalities requires at least 1 male and 1 female restroom at all transportation passenger terminals. Unfortunately, this code is not always followed. An interesting example is York, Pennsylvania's new Bus Transfer Center. While it features a climate controlled waiting area, it does not allow riders to use its restrooms. This is not the exception. For many years transit customers were not allowed to use the restrooms of the large and complex Washington D.C. Metro Transit System. Chicago and San Francisco's subway systems still don't allow customers to use their toilets.

No modern Commuter Transit System would intentionally design a station to preclude use by someone in a wheel chair. The same philosophy must be applied to the restroom challenged. Transit Stations without public restroom access have toilets for their staff. Staff will occasionally honor a customer request; unfortunately, there's no guarantee. Changing System Policy to require honoring all customers' toilet requests is a no-cost interim solution. Where permanent facilities are not available, portable toilets should be placed in discrete, safe areas adjacent to stations. Stations with large sprawling parking lots should have a portable toilet in the area located the greatest distance from the station.

It was only a few short years ago that one man told Metroped his experience with the Washington D.C. public subway system. His father was visiting from out of state and was excited to use the well-respected rail system to travel to many of the city's popular historic sites and museums. Upon entering the subway system the father had to use the restroom facilities. He inquired at the ticket booth and was told that there was no public toilet available. The man shared the embarrassment his father experienced at having to tell his son that he couldn't ride the rail system without knowing how or when he could reach a restroom. Since that occurrence, with the hard work of dedicated and concerned citizens, the Washington Metro system has opened its bathroom doors to the public.

In conjunction with opening the existing restrooms, the Metro has also installed a state-of-the-art self-cleaning toilet. Automatic Public Toilets (APT) are low maintenance self-cleaning units. They cut labor cost, but still require some maintenance, typically via a service contract. Some municipalities budget the cost, while others sell advertisement space in and on the unit to defray or offset the need to charge. In a worst-case situation the APTs are used as a revenue source by charging for their use. Boston, Massachusetts has installed several self-cleaning toilets in recent years as well; however they charge a fee of \$0.25 for use of the toilet. (2) Although efforts to increase availability are appreciated, charging for basic human functions is not acceptable. Seattle, Washington has also recently installed five of the self-cleaning units after much debate, mostly due to the cost. Seattle will be spending approximately \$600,000 annually on the units. (3)

How public toilets benefit society

Society benefits when public restrooms are available in parks, cities, towns and suburban communities. Public restrooms can serve as a catalyst to revitalize downtown areas and bring in new business. No police force is sufficiently staffed to stop public urination when facilities are unavailable. Cities with thought-out distributions of public restrooms and portable toilets have few 'civility law' violations.

Public restrooms can also shift people out of cars and into the mass transit systems. During periods of peak traffic congestion, everyone wishes other drivers would use an alternative transportation mode. For someone sensing a filling bladder, traffic jams are a concern, but there are options. Using a Mass Transit with restroomless terminals leads to a trapped feeling. Even when faster, mass-transit doesn't allow the emergency pull-off. Conversely, a transit system with convenient toilets is preferable to hoping one can get off the highway soon enough to locate a fast-food establishment.

Looking forward

The Public Restroom Initiative (PRI) has been created with the intention of acting as an information source for Advocates working to make life viable for the restroom challenged. These people, as noted above, are those who suffer medical conditions that cause them to frequently need a restroom when away from home. These otherwise productive individuals are limited in their choice of work locations, in their participation in physical fitness activities, and to where and how they travel by the limited availability of public toilet facilities.

Goals of the Public Restroom Initiative include the increasing public awareness of the challenge of everyday life faced by those who suffer from lack of restroom access. Long term, the PRI is fostering the development and implementation of better Public Health Directives to eliminate the gaps in existing Federal, State and Local toilet availability codes.

An appropriate Agency of the United States Department of Health and Human Services (HHS) should sponsor a broadly applicable toilet facility CFR. As an immediate stopgap, even a non-binding 'Position Statement' by an Agency of the HHS would be a

significant improvement over the existing situation. Likewise, the U.S. Access Board should strengthen its ADA regulations to preclude removal of an existing toilet facility as a method of resolving an accessibility complaint.

One recommendation is for various interested advocacy organizations to generate draft 'concept code' which for example would propose that every incorporated municipal district, borough, city, town, or village, or other entity of local self-government shall provide access to restrooms for the public at all times of the day and at any time of the year. In jurisdictions unable to provide dedicated public facilities, or at those times of the day or year when dedicated public facilities are closed, written and published policy should exist to allow access by the public to public toilet facilities in government buildings that are continually operational (24 hours a day, seven days a week).

It is time for the U.S. government to take a cue from other nations. Beijing's city administration has committed to renovating its 7,700 public toilets prior to the 2008 Olympics. Also, about 3000 commercial buildings in Beijing have recently opened their toilets to the public. "Beijing municipal government has set a goal of ensuring public toilets available within an eight-minute walk of anywhere in the city." (4) We know we our succeeding when elected officials in the U.S adopt the same goal and make the availability of public toilets a priority on their agendas.

2 References

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² Greater Boston. 23 July 2002. 3 Aug. 2004

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³ Mulady, Kathy. "At last, relief is in sight as plush public potties open downtown." Seattle Post-Intelligencer 2 Mar. 2004, Local

⁴ ExpressIndia. The Indian Express Group. 3 Aug. 2004. 4 Aug. 2004.

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3 Presentation of Author(s)

Robert Brubaker, who served in the U.S. Government as a Scientist and Engineer, retired after a 33-year career to establish Metroped Inc. In addition to running Metroped Inc., Mr. Brubaker is a computer and network consultant and also a committed bicycle and pedestrian advocate.

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