



Office of the City Manager

CONSENT CALENDAR
July 16, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: Referral Response: Berkeley Municipal Code Revision Related to the Use of Gender Neutral Language

RECOMMENDATION

Adopt first reading of an Ordinance revising the Berkeley Municipal Code to include gender-neutral pronouns by eliminating any gender preference language within the Berkeley Municipal Code and amend Sections 1.04.020, 4.36.110, 4.38.110, 4.39.110, and 11.08.050 regarding grammatical interpretation to indicate that whenever a gender neutral personal pronoun is used, it shall be deemed to include the feminine and masculine also.

FISCAL IMPACTS OF RECOMMENDATION

This update to the Berkeley Municipal Code is estimated to cost \$600 and will be paid from the City's existing codification contract with Code Publishing Company (Contract No. 9541A). Funds are allocated in the General Fund budget and will be paid from budget code 011-32-312-000-0000-000-411-612990-.

CURRENT SITUATION AND ITS EFFECTS

This report partially responds to a two-part short term referral from the City Council that originally appeared on the agenda of the March 12, 2019 Council meeting and was sponsored by Councilmembers Robinson, Davila, Bartlett, and Droste. At the City Council meeting of March 12, 2019 the City Council approved a recommendation to "develop and return to Council with a procedural and financial plan to revise the Berkeley Municipal Code to replace all instances of gendered pronouns with the singular "they," and amend Sections 1.04.020, 4.36.110, 4.38.110, 4.39.110, and 11.08.050 regarding grammatical interpretation to indicate that whenever a gender-neutral personal pronoun is used, it shall be deemed to include the feminine and masculine also."

In response, the City Clerk Department has drafted an Ordinance (Attachment 1) that incorporates the principal purpose of the referral. If approved, subject to final approval by the City, the city's codifier, Code Publishing Company, has authority to degenderize the Berkeley Municipal Code to update pronouns when appropriate and update future ordinances by making changes such as the following:

- A. Gendered subject (he, she, etc.), object (him, her, etc.) and possessive (his, hers, etc.) pronouns shall be replaced by a gender-neutral description of the pronoun referent's title of office, employment or descriptor. For example, where a code section refers to a "Director" all subsequent gendered pronouns shall be replaced by "the Director" in the subjective case, "that Director" in the objective case and "the Director's" in the possessive case.

BACKGROUND

Item 17 on the March 12, 2019 agenda, was submitted by Councilmember Robinson regarding the use of gender-neutral language in city documents. The recommendation was to refer to the city manager to:

1. Develop and return to Council with a procedural and financial plan to modify all appropriate City forms to include an optional field for personal gender pronouns (She/her, he/him, they/them, and space to specify other).
2. Develop and return to Council with a procedural and financial plan to revise the Berkeley Municipal Code to replace all instances of gendered pronouns with the singular "they," and amend Sections 1.04.020, 4.36.110, 4.38.110, 4.39.110, and 11.08.050 regarding grammatical interpretation to indicate that whenever a gender-neutral personal pronoun is used, it shall be deemed to include the feminine and masculine also.

This report addresses the second half of the recommendation. The City Clerk Department is responsible for maintaining and managing the official version of the Berkeley Municipal Code and utilizes Code Publishing Company for the codification of the General Ordinances.

According to Code Publishing Company, the Berkeley Municipal Code currently contains mostly masculine pronouns. In recent years, broadening societal awareness of transgender and gender nonconforming identities has brought to light the importance of non-binary gender inclusivity.

In 2017, in recognition of the growing awareness, the California Legislature introduced and passed Senate Bill 179 Gender identity: female, male, or non-binary, which was signed into law and took effect in 2019. SB 179 provided for a third gender option on the state driver's license, identification card, and birth certificates. Locally, in early 2019, the City of Berkeley extended an option to all employees to receive an employee name badge with preferred pronouns printed alongside professional category.

The League of California Cities saw the need to develop a best practices guide for city officials and city staff related to new state laws, policies, and practices that promote inclusive workplaces. Included in the list of recommendations, is for municipalities to replace all gendered terms within their Municipal Code with gender-neutral terms.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The proposed ordinance responds to a Council directive. Amending the municipal code to include gender-neutral pronouns by eliminating any gender preference language within the municipal code will promote equality.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

- 1: Ordinance
- 2: Original Referral Report from Councilmember Robinson

ORDINANCE NO. X,XXX–N.S.

AMENDING THE BERKELEY MUNICIPAL CODE TO MODIFY ANY AND ALL MASCULINE AND/OR FEMININE LANGUAGE TO GENDER NEUTRAL PRONOUNS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 1.04.020 is amended to read as follows:

Section 1.04.020 Grammatical interpretation.

The following grammatical rules shall apply in the ordinances of the City of Berkeley:

- A. Gender. The ~~masculine~~-gender neutral pronoun includes the feminine and ~~masculine~~~~neuter~~ genders, ~~and the neuter gender includes the masculine and feminine.~~
- B. Pronoun Singularity~~Singular and plural.~~ “They/them” shall indicate a singular individual, unless the context indicates the contrary. In most cases, ~~the~~ the singular number includes the plural and the plural includes the singular.
- C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.
- D. Use of words and phrases. Words and phrases not specifically defined shall be construed according to the context and approved usage of the language.

Section 2. That Berkeley Municipal Code Section 4.36.110 is amended to read as follows:

Section 4.36.110 Gender.

"Gender." Whenever a personal pronoun is used in the ~~neutral~~~~masculine~~ gender, it shall be deemed to include the feminine and masculine also. “They/them” shall indicate a singular individual, unless the context indicates the contrary.

Section 3. That Berkeley Municipal Code is amended to read as follows:

Section 4.38.110 Gender.

"Gender." Whenever a personal pronoun is used in the ~~neutral~~ ~~masculine~~-gender, it shall be deemed to include the feminine and masculine also. “They/them” shall indicate a singular individual, unless the context indicates the contrary.

Section 4. That Berkeley Municipal Code is amended to read as follows:

Section 4.39.110 Gender.

"Gender." Whenever a personal pronoun is used in the ~~neutral masculine~~ gender, it shall be deemed to include the feminine and masculine also. "They/them", shall indicate a singular individual, unless the context indicates the contrary.

Section 5. That Berkeley Municipal Code is amended to read as follows:

Section 11.08.050 Construction of genders.

The ~~neutral masculine~~ gender includes the feminine and ~~masculine neuter; the feminine, the masculine and neuter; the neuter, the masculine and feminine~~. "They/them" shall indicate a singular individual, unless the context indicates the contrary.

Section 6. The pronouns throughout the municipal code are amended to promote gender-neutral pronouns.

Section 7. Subject to final approval by the City, the city's codifier, Code Publishing Company, has authority to degenderize the Berkeley Municipal Code and update pronouns when appropriate and also includes the updating of future ordinances by making changes such as the following:

- A. Gendered subject (he, she, etc.), object (him, her, etc.) and possessive (his, hers, etc.) pronouns shall be replaced by a gender-neutral description of the pronoun referent's title of office, employment or descriptor. For example, where a code section refers to a "Director" all subsequent gendered pronouns shall be replaced by "the Director" in the subjective case, "that Director" in the objective case and "the Director's" in the possessive case.
- B. Table 1 lists commonly encountered titles of office, employment and descriptors. All gendered pronouns within the BMC that refer back to a title of office, employment or descriptor found in Table 1 shall be replaced by the subjective, objective or possessive form of the that title of office, employment or descriptor, as the case may be. Table 1 is non-exhaustive and may be amended from time to time.

Table 1	
Gendered Terms in Existing Code	Common Non-Gendered Titles of Office, Employment and Descriptors
He, She, Him, Her, Himself, Herself	The Agent
He, She, Him, Her, Himself, Herself	The Alternate member
He, She, Him, Her, Himself, Herself	The Applicant

He, She, Him, Her, Himself, Herself	The Architect
He, She, Him, Her, Himself, Herself	The Assessor
He, She, Him, Her, Himself, Herself	The Attorney
He, She, Him, Her, Himself, Herself	The Candidate
He, She, Him, Her, Himself, Herself	The Chief officer
He, She, Him, Her, Himself, Herself	The Clerk
He, She, Him, Her, Himself, Herself	The Complainant
He, She, Him, Her, Himself, Herself	The Consignee
He, She, Him, Her, Himself, Herself	The Councilmember
He, She, Him, Her, Himself, Herself	The Dancer
He, She, Him, Her, Himself, Herself	The Dealer
He, She, Him, Her, Himself, Herself	The Declarant
He, She, Him, Her, Himself, Herself	The Department director
He, She, Him, Her, Himself, Herself	The Deputy
He, She, Him, Her, Himself, Herself	The Designee
He, She, Him, Her, Himself, Herself	The Detainee
He, She, Him, Her, Himself, Herself	The Director
He, She, Him, Her, Himself, Herself	The Driver
He, She, Him, Her, Himself, Herself	The Employee
He, She, Him, Her, Himself, Herself	The Engineer
He, She, Him, Her, Himself, Herself	The Entertainer
He, She, Him, Her, Himself, Herself	The Examiner
He, She, Him, Her, Himself, Herself	The Executive
He, She, Him, Her, Himself, Herself	The Executor
He, She, Him, Her, Himself, Herself	The Felon
He, She, Him, Her, Himself, Herself	The Fire Marshall
He, She, Him, Her, Himself, Herself	The Franchisee
He, She, Him, Her, Himself, Herself	The Franchisor
He, She, Him, Her, Himself, Herself	The Guarantee
He, She, Him, Her, Himself, Herself	The Guarantor
He, She, Him, Her, Himself, Herself	The Individual
He, She, Him, Her, Himself, Herself	The Inspector
He, She, Him, Her, Himself, Herself	The Investigator
He, She, Him, Her, Himself, Herself	The Leaver
He, She, Him, Her, Himself, Herself	The Lessee
He, She, Him, Her, Himself, Herself	The Lessor
He, She, Him, Her, Himself, Herself	The Licensee
He, She, Him, Her, Himself, Herself	The Lobbyist
He, She, Him, Her, Himself, Herself	The Manager
He, She, Him, Her, Himself, Herself	The Member
He, She, Him, Her, Himself, Herself	The Merchant

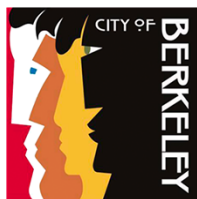
He, She, Him, Her, Himself, Herself	The Mortgagee
He, She, Him, Her, Himself, Herself	The Mortgagor
He, She, Him, Her, Himself, Herself	The Offender
He, She, Him, Her, Himself, Herself	The Officer
He, She, Him, Her, Himself, Herself	The Official
He, She, Him, Her, Himself, Herself	The Operator
He, She, Him, Her, Himself, Herself	The Owner
He, She, Him, Her, Himself, Herself	The Pawn broker
He, She, Him, Her, Himself, Herself	The Permit holder
He, She, Him, Her, Himself, Herself	The Permittee
He, She, Him, Her, Himself, Herself	The Person
He, She, Him, Her, Himself, Herself	The Physician
He, She, Him, Her, Himself, Herself	The Principal
He, She, Him, Her, Himself, Herself	The Prisoner
He, She, Him, Her, Himself, Herself	The Probationer
He, She, Him, Her, Himself, Herself	The Promoter
He, She, Him, Her, Himself, Herself	The Public records officer
He, She, Him, Her, Himself, Herself	The Purchaser
He, She, Him, Her, Himself, Herself	The Respondent
He, She, Him, Her, Himself, Herself	The Secondhand dealer
He, She, Him, Her, Himself, Herself	The Seller
He, She, Him, Her, Himself, Herself	The Servant
He, She, Him, Her, Himself, Herself	The Sheriff
He, She, Him, Her, Himself, Herself	The Solicitor
He, She, Him, Her, Himself, Herself	The Sponsor
He, She, Him, Her, Himself, Herself	The Station manager's
He, She, Him, Her, Himself, Herself	The Suspended person
He, She, Him, Her, Himself, Herself	The Tenant
He, She, Him, Her, Himself, Herself	The Trespasser
He, She, Him, Her, Himself, Herself	The Trustee
He, She, Him, Her, Himself, Herself	The Vendor

C. Each specifically gendered term identified in column A of Table 2, and which is also found within the Berkeley Municipal Code, shall be replaced by the corresponding non-gendered term identified in column B. Table 2 is non-exhaustive and may be amended from time to time.

Table 2

Gendered Terms Commonly Found in Existing Code	Non-Gendered Term Replacement
"Bondsman"	"Bonds-person"
"Brother"	"Sibling"
"Chairman"	"Chair," "chairperson"
"Craftsmen"	"Craftspeople," "artisans"
"Fireman," "Firewoman," "Firemen," "Firewomen"	"Firefighter," "firefighters"
"Fraternal"	"Social"
"Heirs"	"Beneficiaries"
"Journeyman"	"Journey"
'Maiden"	"Family"
"Male" and "female"	"People of different genders"
"Manhole"	"Maintenance hole"
"Manmade"	"Human-made" "Artificial" "manufactured" "machine made" "synthetic"
"Manpower"	"Human effort"
"Manpower"	"Workforce"
"Master"	"Captain," "Skipper," "Pilot," "Safety Officer," "Central"
"Men and women"	"People"
"Men or women"	"A single gender"
"Ombudsman"	"Ombuds," "Investigating Official"
"Patrolmen"	"Patrol," "Guards"
"Policeman," "Policewoman," "Policemen," "Policewomen"	"Police Officer," "Police Officers"
"Pregnant" (woman, women)	"Pregnant employees"
"Repairman"	"Repairs," "Repairer"
"Salesman"	"Salesperson," "Salespeople"
"Sister"	"Sibling"
"Sorority," "Fraternity"	"Collegiate Greek system residence"
"Sportsman"	"Hunters"
"The masculine pronoun includes the feminine"	"Words referring to a specific gender may be extended to any other gender"
"Watchmen"	"Guards"

Section 8. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



CITY COUNCILMEMBER
RIGEL ROBINSON
 DISTRICT 7

CONSENT CALENDAR
 March 12, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmember Rigel Robinson
 Subject: Use of Gender Neutral Language in City Documents

RECOMMENDATION

Refer to the City Manager to:

1. Develop and return to Council with a procedural and financial plan to modify all appropriate City forms to include an optional field for personal gender pronouns (she/her, he/him, they/them, and space to specify other).
2. Develop and return to Council with a procedural and financial plan to revise the Berkeley Municipal Code to replace all instances of gendered pronouns with the singular "they," and amend Sections 1.04.020, 4.36.110, 4.38.110, 4.39.110, and 11.08.050 regarding grammatical interpretation to indicate that whenever a gender neutral personal pronoun is used, it shall be deemed to include the feminine and masculine also.

BACKGROUND

In recent years, broadening societal awareness of transgender and gender-nonconforming identities has brought to light the importance of non-binary gender inclusivity. Therefore, it is both timely and necessary to make the environment of City Hall and the language of city legislation consistent with the principles of inclusion.

In a commendable first step, as of February 2019, the City has extended the option to all employees to receive a name badge with preferred pronouns printed alongside professional category.

In continuing this trend, City staff should develop a timeline and financial plan for implementing an optional field for personal pronouns on forms that are used by the public or new employees. In all instances where such a form currently requires selection of "Female," "Male," or "Decline to State," this designation should be eliminated and replaced with "She/Her," "He/Him," "They/Them," or "Other _____". Forms used by the public or new employees which do not currently have a form for indicating gender should be assessed to determine whether such a field should be added.

The five current Sections of the Berkeley Municipal Code regarding the interpretation of gendered pronouns are inconsistently worded, and three are constructed with an

exclusionary interpretation of gender as binary. Suggested amendments to correct Sections 1.04.020, 4.36.110, 4.38.110, 4.39.110, and 11.08.050 are attached.

Additionally, all instances of personal pronouns throughout the Berkeley Municipal Code should be changed to the neutral gender. Staff should develop a proposal to achieve these changes which limits cost and additional use of staff time. For the Charter and those parts of the Code requiring ballot measures to amend, future revisions placed before the voters of Berkeley for other reasons should also include amendments to adopt the neutral gender.

FINANCIAL IMPLICATIONS

Cost dependent on staff recommendation.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Mars Svec-Burdick, (510) 981-7170

Attachments:

1: Ordinance

2: Merriam-Webster Definition of "they,"

ORDINANCE NO. -N.S.

AMENDING THE BERKELEY MUNICIPAL CODE TO ADOPT GENDER INCLUSIVE LANGUAGE

BE IT ORDAINED by the Council of the City of Berkeley as follows:

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Section 1.04.020 Grammatical interpretation.

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- A. Gender. The ~~masculine~~ gender neutral pronoun includes the feminine and ~~masculine~~neuter genders, ~~and the neuter gender includes the masculine and feminine.~~
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Section 4.36.110 Gender.

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Section 3. That Berkeley Municipal Code is amended to read as follows:

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Section 4. That Berkeley Municipal Code is amended to read as follows:

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"Gender." Whenever a personal pronoun is used in the neutral masculine gender, it shall be deemed to include the feminine and masculine also.

"They/them"; shall indicate a singular individual, unless the context indicates the contrary.

Section 5. That Berkeley Municipal Code is amended to read as follows:

Section 11.08.050 Construction of genders.

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Merriam-Webster Definition of They

they pronoun, plural in construction

\ 'thā \

Definition of they (Entry 1 of 2)

1.
 - a. those ones —used as third person pronoun serving as the plural of he, she, or it or referring to a group of two or more individuals not all of the same sex
 - i. they dance well
 - b. HE entry 1 sense 2 —often used with an **indefinite third person singular antecedent**
 - i. everyone knew where **they** stood — E. L. Doctorow
 - ii. nobody has to go to school if **they** don't want to — N. Y. Times
2.
 - a. PEOPLE sense 2 —used in a generic sense
 - i. as lazy as they come

