

ORDINANCE NO. 31-22

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REPEALING CHAPTER 133, "OFFENSES AGAINST PERSONS", SECTION 133.02, "PROHIBITION OF CONVERSION THERAPY ON MINORS", PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 133 SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Eleventh Circuit Court of Appeals recently found the City of Boca Raton's prohibition on conversion therapy to be an unconstitutional restriction on speech in violation of the First Amendment to the United States Constitution; and

WHEREAS, the City of Delray Beach adopted a similar prohibition in 2017 now codified under Section 133.02 of the Code of Ordinances; and

WHEREAS, while the City disagrees with the decision, the City respects and accepts the judicial decision in the case of *Otto, et al vs. City of Boca Raton and County of Palm Beach, Florida*; and

WHEREAS, the City desires to repeal Chapter 133, "Offenses Against Persons," Section 133.02, "Prohibition of Conversion Therapy on Minors."

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA AS FOLLOWS:

Section 1. The above recitals are true and correct and are hereby incorporated into this Ordinance as if fully restated herein.

Section 2. Chapter 133, "Offenses Against Persons", Section 133.02 "Prohibition of Conversion Therapy on Minors" of the Code of Ordinances of the City of Delray Beach, Florida, be deleted in its entirety:

~~Sec. 133.02 PROHIBITION OF CONVERSION THERAPY ON MINORS.~~

~~(A) **Purpose.** The intent of this Ordinance is to protect the physical and psychological well-being of minors, including but not limited to lesbian, gay, bisexual, transgender and/or questioning youth, from exposure to the serious harms and risks caused by conversion therapy or reparative therapy by licensed providers, including but not limited to licensed therapists. These provisions are exercises of police power of the City for the public safety, healthy, and welfare; and its provisions shall be liberally construed to accomplish that purpose.~~

~~(B) **Definitions.**~~

~~(1) *Conversion therapy or reparative therapy* means, interchangeably, any counseling, practice or treatment performed with the goal of changing an individual's sexual orientation or gender identity, including, but not limited to, efforts to change behaviors, gender identity, or gender expression, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender or sex. Conversion therapy does not include counseling that provides support and assistance to a person undergoing gender transition or counseling that provides acceptance, support, and understanding of a person or facilitates a persons' coping, social support, and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change sexual orientation or gender identity.~~

~~(2) *Minor* means any person less than eighteen (18) years of age.~~

~~(3) *Provider* means any person who is licensed by the State of Florida to provide professional counseling, or who performs counseling as part of his or her professional training under Chapters 456, 458, 459, 490 or 491 of the Florida Statutes, as such chapters may be amended, including but not limited to, medical practitioners, osteopathic practitioners, psychologists, psychotherapists, social workers, marriage and family therapists, and licensed counselors. A Provider does not include members of the clergy who are acting in their roles as clergy or pastoral counselors and providing religious counseling to congregants, as long as they do not hold themselves out as operating pursuant to any of the aforementioned Florida Statutes licenses.~~

~~C. **Conversation Therapy Prohibited.** It shall be unlawful for any Provider to practice conversion therapy efforts on any individual who is a minor regardless of whether the person receives monetary compensation in exchange for such services.~~

~~D. **Penalties:**~~

~~(1) Any penalty for violation of this section shall be in accordance with Section 10.99 of the Code.~~

Section 3. All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

Section 4. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 5. Specific authority is hereby given to codify this Ordinance.

Section 6. This Ordinance shall become effective immediately upon adoption.

PASSED AND ADOPTED in regular session on second and final reading on this the _____ day of _____, 2022.

ATTEST:

City Clerk

M A Y O R

First Reading _____

Second Reading _____

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney