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2 | **ORDINANCE NO. 17-____**
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4 **AN ORDINANCE OF THE CITY OF BOYNTON BEACH,**
5 **FLORIDA, AMENDING CHAPTER 15, "OFFENSES -**
6 **MISCELLANEOUS" OF THE CODE OF ORDINANCES, BY**
7 **CREATING A NEW ARTICLE XIII, TO PROHIBIT THE**
8 **PRACTICE OF CONVERSION THERAPY ON MINORS;**
9 **PROVIDING FOR CONFLICTS, SEVERABILITY,**
10 **CODIFICATION AND AN EFFECTIVE DATE.**
11

12 **WHEREAS,** as recognized by major professional associations of mental health
13 practitioners and researchers in the United States and elsewhere for nearly 40 years, being
14 lesbian, gay, bisexual, transgender or gender nonconforming, or questioning (LGBT or
15 LGBTQ) is not a mental disease, disorder or illness, deficiency or shortcoming; and
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17 **WHEREAS,** the American Academy of Pediatrics in 1993 published an article in its
18 Journal, stating: "Therapy directed at specifically changing sexual orientation is
19 contraindicated, since it can provoke guilt and anxiety while having little or no potential for
20 achieving changes in orientation;"¹ and
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22 **WHEREAS,** the American Psychiatric Association in December 1998 published its
23 opposition to any psychiatric treatment, including reparative or conversion therapy, which
24 therapy regime is based upon the assumption that homosexuality is a mental disorder *per se* or
25 that a patient should change his or her homosexual orientation;² and
26

27 **WHEREAS,** the American Psychological Association's Task Force on Appropriate
28 Therapeutic Responses to Sexual Orientation ("APA Task Force") conducted a systematic
29 review of peer-reviewed journal literature on sexual orientation change efforts ("SOCE"), and
30 issued its report in 2009, citing research that sexual orientation change efforts can pose critical
31 health risks to lesbian, gay, and bisexual people, including confusion, depression, guilt,
32 helplessness, hopelessness, shame, social withdrawal, suicidality, substance abuse, stress,
33 disappointment, self-blame, decreased self-esteem and authenticity to others, increased self-
34 hatred, hostility and blame toward parents, feelings of anger and betrayal, loss of friends and
35 potential romantic partners, problems in sexual and emotional intimacy, sexual dysfunction,
36 high-risk sexual behaviors, a feeling of being dehumanized and untrue to self, a loss of faith,
37 and a sense of having wasted time and resources;³ and
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39 **WHEREAS,** following the report issued by the APA Task Force, the American
40 Psychological Association in 2009 issued a resolution on Appropriate Affirmative Responses
41 to Sexual Orientation Distress and Change Efforts, advising parents, guardians, young people,
42 and their families to avoid sexual orientation change efforts that portray homosexuality as a

¹ <http://pediatrics.aappublications.org/content/pediatrics/92/4/631.full.pdf>

² https://www.camft.org/ias/images/PDFs/SOCE/APA_Position_Statement.pdf

³ <https://www.apa.org/pi/lgbt/resources/therapeutic-response.pdf>

43 mental illness or developmental disorder and to seek psychotherapy, social support, and
44 educational services that provide accurate information on sexual orientation and sexuality,
45 increase family and school support, and reduce rejection of sexual minority youth;⁴ and
46

47 **WHEREAS**, the American Psychoanalytic Association in June 2012 issued a position
48 statement on conversion therapy efforts, articulating that "As with any societal prejudice, bias
49 against individuals based on actual or perceived sexual orientation, gender identity or gender
50 expression negatively affects mental health, contributing to an enduring sense of stigma and
51 pervasive self-criticism through the internalization of such prejudice" and that psychoanalytic
52 technique "does not encompass purposeful attempts to 'convert,' 'repair,' change or shift an
53 individual's sexual orientation, gender identity or gender expression," such efforts being
54 inapposite to "fundamental principles of psychoanalytic treatment and often result in
55 substantial psychological pain by reinforcing damaging internalized attitudes;"⁵ and
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57 **WHEREAS**, the American Academy of Child & Adolescent Psychiatry in 2012
58 published an article in its Journal stating that clinicians should be aware that there is "no
59 evidence that sexual orientation can be altered through therapy and that attempts to do so may
60 be harmful;" that there is "no medically valid basis for attempting to prevent homosexuality,
61 which is not an illness;" and that such efforts may encourage family rejection and undermine
62 self-esteem, connectedness and caring, important protective factors against suicidal ideation
63 and attempts; and that, for similar reasons cumulatively stated above, carrying the risk of
64 significant harm, SOCE is contraindicated⁶; and
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66 **WHEREAS**, the Pan American Health Organization, a regional office of the World
67 Health Organization, issued a statement in 2012 stating: "These supposed conversion
68 therapies constitute a violation of the ethical principles of health care and violate human rights
69 that are protected by international and regional agreements." The organization also noted that
70 conversion therapies "lack medical justification and represent a serious threat to the health
71 and well-being of affected people;"⁷ and
72

73 **WHEREAS**, in 2014 the American School Counselor Association issued a position
74 statement that states: "It is not the role of the professional school counselor to attempt to
75 change a student's sexual orientation or gender identity. Professional school counselors do
76 not support efforts by licensed mental health professionals to change a student's sexual
77 orientation or gender as these practices have been proven ineffective and harmful;"⁸ and
78

79 **WHEREAS**, a 2015 report of the Substance Abuse and Mental Health Services
80 Administration, a division of the U.S. Department of Health and Human Services, "Ending
81 Conversion Therapy: Supporting and Affirming LGBTQ Youth" further reiterates based on

⁴ <http://www.apa.org/about/policy/sexual-orientation.pdf>

⁵ <http://www.apsa.org/content/2012-position-statement-attempts-change-sexual-orientation-gender-identity-or-gender>

⁶ [http://www.jaacap.com/article/S0890-8567\(12\)00500-X/pdf](http://www.jaacap.com/article/S0890-8567(12)00500-X/pdf)

⁷ http://www.paho.org/hq/index.php?option=com_content&view=article&id=6803%3A2012-therapies-change-sexual-orientation-lack-medical-justification-threaten-health&catid=740%3Apress-releases&Itemid=1926&lang=en

⁸ https://www.schoolcounselor.org/asca/media/asca/PositionStatements/PS_LGBTQ.pdf

82 scientific literature that conversion therapy efforts to change an individual's sexual
83 orientation, gender identity, or gender expression is a practice not supported by credible
84 evidence and has been disavowed by behavioral health experts and associations, perpetuates
85 outdated views of gender roles and identities, negative stereotypes, stating, importantly, that
86 such therapy may put young people at risk of serious harm, and recognizing that, same-gender
87 sexual orientation (including identity, behavior, and attraction) is part of the normal spectrum
88 of human diversity and does not constitute a mental disorder;⁹ and
89

90 **WHEREAS**, the American College of Physicians wrote a position paper in 2015
91 opposing the use of “conversion,” “reorientation,” or “reparative” therapy for the treatment of
92 LGBT persons, stating that “[a]vailable research does not support the use of reparative
93 therapy as an effective method in the treatment of LGBT persons. Evidence shows that the
94 practice may actually cause emotional or physical harm to LGBT individuals, particularly
95 adolescents or young persons;”¹⁰ and
96

97 **WHEREAS**, at least one federal appeals court¹¹ found that a prohibition of SOCE
98 does not violate first amendment rights and noted that the subject ordinance only required
99 mental health providers who wish to engage in practices that seek to change a minor's sexual
100 orientation either to wait until the minor turns 18 or be subject to professional discipline,
101 leaving mental health providers free to discuss or recommend treatment and to express their
102 views on any topic; and
103

104 **WHEREAS**, the City does not intend to prevent mental health providers from
105 speaking to the public about SOCE; expressing their views to patients; recommending SOCE
106 to patients; administering SOCE to any person who is 18 years of age or older; or referring
107 minors to unlicensed counselors, such as religious leaders. This ordinance does not prevent
108 unlicensed providers, such as religious leaders, from administering SOCE to children or
109 adults; nor does it prevent minors from seeking SOCE from mental health providers in other
110 political subdivisions or states outside of the City of Boynton Beach, Florida; and
111

112 **WHEREAS**, City of Boynton Beach has a compelling interest in protecting the
113 physical and psychological well-being of minors, including but not limited to lesbian, gay,
114 bisexual, transgender and questioning youth, and in protecting its minors against exposure to
115 serious harms caused by sexual orientation and gender identity change efforts; and
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117 **WHEREAS**, the City Commission hereby finds the overwhelming research
118 demonstrating that sexual orientation and gender identity change efforts can pose critical
119 health risks to lesbian, gay, bisexual, transgender or questioning persons, and that being
120 lesbian, gay, bisexual, transgender or questioning is not a mental disease, mental disorder,
121 mental illness, deficiency, or shortcoming; and
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123 **WHEREAS**, the City Commission finds minors receiving treatment from licensed
124 therapists in the City of Boynton Beach, FL who may be subject to conversion or reparative

⁹ <http://store.samhsa.gov/shin/content/SMA15-4928/SMA15-4928.pdf>

¹⁰ <http://annals.org/article.aspx?articleid=2292051>

¹¹ *Pickup v. Brown*, 740 F3d 1208 (9th Cir. 2014)

125 therapy are not effectively protected by other means, including, but not limited to, other state
126 statutes, local ordinances, or federal legislation; and

127 **WHEREAS**, the City Commission desires to prohibit, within the geographic
128 boundaries of the City, the practice of sexual orientation or gender identity change efforts on
129 minors by licensed therapists only, including reparative and/or conversion therapy, which
130 have been demonstrated to be harmful to the physical and psychological well-being of
131 lesbian, gay, bisexual, transgender and questioning persons.
132

133 **NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF**
134 **THE CITY OF BOYNTON BEACH, THAT:**

135 **Section 1.** The foregoing "Whereas" clauses are true and correct and incorporated
136 herein by this reference.
137

138 **Section 2.** That Chapter 15, is hereby amended by creating a new Article XIII,
139 entitled Prohibition of Conversion Therapy on Minors, to read as follows:
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141
142 **ARTICLE XII: PROHIBITION OF CONVERSION THERAPY ON MINORS**
143

144 **Sec. 15-134. - Intent.**
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146 The Intent of this Ordinance is to protect the physical and psychological well-being of
147 minors, including but not limited to lesbian, gay, bisexual, transgender and/or questioning
148 youth, from exposure to the serious harms and risks caused by conversion therapy or
149 reparative therapy by licensed providers, including but not limited to licensed therapists.
150 These provisions are exercises of police power of the City for the public safety, health, and
151 welfare; and its provisions shall be liberally construed to accomplish that purpose.
152

153 **Sec. 15-135. - Definitions.**

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

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

(c) *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.

Sec. 15-136. - Conversion 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.

Sec. 15-137. - Enforcement and civil penalties.

Violations of this article may be enforced as follows:

- (a) The City Code Enforcement Special Master shall have jurisdiction to hear and decide cases in which violations of this Chapter are alleged, or
- (b) The City may enforce the provision of this Code by supplemental Code or Ordinance enforcement procedures as provided by Part 2 of Chapter 162, Florida Statutes, or
- (c) The City may prosecute violations by issuance of Notices to Appear for violation of a City Ordinance, in which case, the penalty for each violation shall be \$500.00, or
- (d) The City Attorney, with authorization from the City Commission, may bring suit on behalf of the City to enjoin any violation of this article.

206 **Section 3.** Each and every other provision of Chapter 15, of the Code of Ordinances
207 of the City of Boynton Beach not herein specifically amended shall remain in full force and
208 effect as previously enacted.

209 **Section 4.** All ordinances or parts of ordinances in conflict herewith be and the
210 same are hereby repealed.

211 **Section 5.** Should any section or provision of this ordinance or portion hereof, any
212 paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid,
213 such decision shall not affect the remainder of this ordinance.

214 **Section 6.** Authority is hereby granted to codify said ordinance.

215 **Section 7.** This ordinance shall become effective immediately upon passage.

216 **FIRST READING** this ____ day of _____, 2017.

217

218 **SECOND, FINAL READING AND PASSAGE** this ____ day of
219 _____, 2017.

220

CITY OF BOYNTON BEACH, FLORIDA

222

223

YES NO

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Mayor – Steven B. Grant

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Vice Mayor – Mack McCray

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Commissioner – Justin Katz

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Commissioner – Christina L. Romelus

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Commissioner – Joe Casello

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VOTE

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238 ATTEST:

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Judith A. Pyle, CMC

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City Clerk

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(Corporate Seal)

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