

COMMISSIONERS' ORDINANCE NO. 0-07-20

AN ORDINANCE AMENDING CHAPTER 111 OF THE COVINGTON CODE OF ORDINANCES, CREATING A NEW SUBCHAPTER PROHIBITING SEXUAL ORIENTATION AND GENDER IDENTITY CHANGE EFFORTS WITH A MINOR, AND ESTABLISHING AN ASSOCIATED CIVIL PENALTY.

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WHEREAS, the City of Covington Board of Commissioners identified a need to prohibit the practice of conversion therapy because it has been discredited as dangerous and ineffective; and

WHEREAS, research demonstrates that sexual orientation and gender identity change efforts can pose critical health risks to lesbian, gay, bisexual, and transgender persons and contemporary science recognizes that being lesbian, gay, bisexual, or transgender is part of the natural spectrum of human identity and is not a disease, disorder, or illness;

WHEREAS, in 2009, the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation concluded that efforts to change sexual orientation and gender identity are unlikely to produce anticipated outcomes and can pose unintended harmful side effects to participants, such as a sense of having wasted time and resources, confusion, shame, guilt, helplessness, hopelessness, loss of faith, decreased self-esteem and authenticity towards others, increased self-hatred and negative perceptions, social withdrawal, a feeling of being dehumanized and untrue to self, depression, increased substance abuse and high-risk sexual behaviors, and suicidality; and

WHEREAS, in 2009, the American Psychological Association also issued a Resolution on Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts, that, among other things, advises persons to avoid efforts to change sexual orientation or gender identity that portray homosexuality as a mental illness or developmental disorder, while encouraging psychotherapy, social support, and educational services that provide accurate information on sexual orientation and sexuality, increase family and school support, and reduce rejection of sexual minority youth; and

WHEREAS, the Substance Abuse and Mental Health Services Administration has concluded that:

1. "Conversion therapy perpetuates outdated views of gender roles and identities as well as the negative stereotype that being a sexual or gender minority or identifying as LGBTQ is an abnormal aspect of human development. Most importantly, it may put young people at risk of serious harm."

2. “Conversion therapy—efforts to change an individual’s sexual orientation, gender identity, or gender expression — is a practice that is not supported by credible evidence, and has been disavowed by behavioral health experts and associations.”
3. “Same-gender sexual identity, behavior, and attraction are not mental disorders. Same-gender sexual attractions are part of the normal spectrum of sexual orientation. Sexual orientation change in children and adolescents should not be a goal of mental health and behavioral interventions; and

WHEREAS, a 2018 study by The Family Acceptance Project found the following:

1. Rates of attempted suicide by LGBT young people whose parents tried to change their sexual orientation were more than double (48%) the rate of LGBT young adults who reported no conversion experiences (22%). Suicide attempts nearly tripled for LGBT young people who reported both home-based and out-of-home efforts to change their sexual orientation (63%);
2. High levels of depression more than doubled (33%) for LGBT young people whose parents tried to change their sexual orientation compared with those who reported no conversion experiences (16%) and more than tripled (52%) for LGBT young people who reported both home-based and out-of-home efforts to change their sexual orientation;
3. Sexual orientation change experiences during adolescence by both parents / caregivers and externally by therapists and religious leaders were associated with lower young adult socioeconomic status: less educational attainment and lower weekly income ; and

WHEREAS, a 2019 study by The Trevor Project, which surveyed 34,000 LGBTQ youth between the ages of 13-24, found that five percent of respondents reported being subjected to conversion therapy. 42 percent of these LGBTQ youth who underwent conversion therapy reported a suicide attempt in the past year, more than twice the rate of their LGBTQ peers who did not report undergoing conversion therapy. 57 percent of transgender and nonbinary youth who had undergone conversion therapy reported a suicide attempt in the last year; and

WHEREAS, twenty (20) States, as well as the District of Columbia, have enacted laws banning this practice against minors when applied by licensed medical providers; and

WHEREAS, the City has a compelling and important interest in protecting the physical and psychological well-being of minors, including lesbian, gay, bisexual and transgender youths, and in protecting its minors against exposure to serious harms caused by conversion therapy; and

WHEREAS, while striving to maintain a balance between First Amendment rights of providers and the safety of minors, Covington desires to prohibit within the City harmful conduct by licensed professionals in the mental health field to change sexual orientation or gender identity with minors, finding that this conduct is correlated with serious risks to minors' health, wellbeing, and lives, and no other less intrusive means of protecting minors from the harms associated with conversion therapy would be effective in furthering the City's interest; now, therefore,

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NOW THEREFORE,
BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY
OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

Chapter 111, Sections 111.901 to 111.90, which read as follows, are added to and amend the Covington Code of Ordinances:

TITLE XI: BUSINESS REGULATIONS

CHAPTER 111: REGULATIONS GOVERNING SPECIFIC BUSINESSES

SEXUAL ORIENTATION OR GENDER IDENTITY CHANGE EFFORTS

§ 111.901 PURPOSE; FINDINGS.

PURPOSE. This Chapter is an exercise of the City's police power for the public safety, health, and welfare; and its provisions shall be liberally construed to accomplish this purpose.

FINDINGS AND INTENT. Medical and mental health experts have denounced efforts to change sexual orientation and gender identity as ineffective and unsafe for people, especially minors. These efforts are based on the discredited premise that being non-heterosexual is a mental disorder that can be corrected or cured. It is the intent of the board of commissioners that these unethical conversion treatments that correlate with serious and dangerous harm to the health and well-being of minors be prohibited. Therefore, the board finds and declares that a compelling and important interest exists in protecting the physical and psychological well-being of minors from efforts to change sexual orientation and gender identity within the municipality through the professional conduct of licensed providers, and no other less intrusive means of protecting minors from the harms associated with conversion therapy would be effective in furthering the City's interest.

§ 111.902 DEFINITIONS.

MINOR. Any person under eighteen (18) years of age.

PROVIDER. Any person licensed, certified, or registered to provide professional counseling including, but not limited to, behavior analysts, licensed professional counselors, marital and family therapists or associates, physicians or assistants, osteopaths or assistants, registered or practical nurses or assistive personnel, certified nurse aides, physical or occupational therapists or assistants, psychologists or psychological associates, social workers or associates, licensed professional conservators or guardians, naturopaths, or a person who performs counseling as part of the person's professional training, including those licensed under KRS 335.

SEXUAL ORIENTATION OR GENDER IDENTITY CHANGE EFFORTS or CONVERSION THERAPY. Any counseling, practice, or treatment that seek to change a person's sexual orientation or gender identity, including, but not limited to, efforts to change behaviors or gender expression, or reduce or eliminate sexual or romantic attraction or feelings toward a person of the same gender. Sexual orientation or gender identity change efforts do not include counseling that does not seek to change sexual orientation or gender identity and:

- (1) Assists a person undergoing gender transition;**
- (2) Provides acceptance, support, and understanding to the person;
or**
- (3) Facilitates a person's coping, social support, identity exploration, and development, including sexual orientation- and gender identity-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices.**

§ 111.903 PROHIBITION ON SEXUAL ORIENTATION OR GENDER IDENTITY CHANGE EFFORTS.

(A) It is unlawful for any provider to provide, apply, or use sexual orientation or gender identity change efforts or conversion therapy with a minor through a provider's professional conduct.

(B) This section shall not be construed to limit a provider's ability refer a client to an entity not covered under this chapter or to limit a provider's speech or conduct in a non-professional capacity.

Section 2

Section 111.999 of the Covington Code of Ordinances is amended to read as follows:

§ 111.999 PENALTY.

(A) *Advertising.* Any person found guilty of violating any provision of §§ 111.003 through 111.005 shall be deemed guilty of a violation and shall be fined not less than \$10 nor more than \$100.

(B) *Alcoholic beverages.*

(1) Any person found guilty of violating any provision of §§ 111.021, 111.024 through 111.028, 111.030, or 111.031, except § 111.025(R), shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding \$500 or by imprisonment in the county jail for not more than 90 days, or both fine and imprisonment in the discretion of the court. This penalty may be imposed in addition to any administrative penalty imposed by the City Alcoholic Beverage Control Administrator or the State Alcoholic Beverage Control Board.

(2) Any person, firm, or corporation convicted of violating § 111.025(R) shall be deemed guilty of a misdemeanor and shall be fined not less than \$25 nor more than \$500 in the discretion of the District Court.

(3) Any person, firm, corporation, whether for profit or not for profit, or any officer or individual or agent or employee of the corporation who violates any of the provisions of § 111.029 shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than \$500 in the District Court or any other court of appropriate jurisdiction, in the discretion of the court.

(4) Any person who violates any provision of § 111.032 shall be deemed guilty of a misdemeanor and shall be fined in an amount of not less than \$50, nor more than \$500, or imprisoned for not more than 90 days, or both fine and imprisonment for each violation, in the discretion of the court. The criminal penalty shall be in addition to any penalty imposed by revocation or suspension of the 2:30 a.m. Permit by the City of Covington Alcoholic Beverage Control Board.

(5) Any person found to be in violation of the provisions of § 111.033 shall be deemed guilty of a misdemeanor and shall be fined in a sum not more than \$500 or six months in jail, or both so fined and imprisoned, at the discretion of a court of appropriate jurisdiction.

(6) Any person found to be in violation of § 111.034 shall be deemed guilty of a misdemeanor and shall be fined in a sum not more than \$500 or imprisoned for not more than six months in jail, or both so fined and imprisoned at the discretion of the court of appropriate jurisdiction.

(7) Any person found to be in violation of the provisions of § 111.035 shall be deemed guilty of a violation and shall be subject to a fine of \$25 for each violation.

(8) Any person found to be in violation of the provisions of § 111.036 shall be deemed guilty of a violation and shall, upon conviction thereof, be fined not less than \$10 nor more than \$100 for each offense.

(C) *Auctions.* Any person who violates any provision of §§ 111.050 or 111.051 shall be deemed guilty of a misdemeanor and shall be fined not more than \$500 or imprisoned for not more than six months, or both fined and imprisoned.

(D) *Charitable solicitations.* Any person who violates any provisions of §§ 111.060 through 111.076 shall be deemed guilty of a misdemeanor and shall be fined not more than \$500 or imprisoned for not more than six months, or both fined and imprisoned.

(E) *Detective and guard agencies.* Any person who violates any provision of §§ 111.090 through 111.102 shall be deemed guilty of a misdemeanor and shall be fined not more than \$500 or imprisoned for not more than six months, or both fined and imprisoned.

(F) *Festival vendor license.* Any person who violates any provision of § 111.260 shall be deemed guilty of a misdemeanor and shall be fined not more than \$500. Each day of continued violation shall be deemed a separate offense.

(G) *Horse-drawn vehicle/carriage businesses.* In addition to any other remedy, any person, firm, or corporation found guilty of violating the provisions of §§ 111.400 through 111.404 shall be deemed guilty of a misdemeanor and shall be fined not less than \$50 nor more than \$200 for each offense (a separate offense shall be deemed committed on each day during or on which a violation occurs or continues), or may be imprisoned for not less than 60 days, or both.

(H) *Itinerant vendors.* Any person, firm, or corporation found to be in violation of the provisions of § 111.141 shall be deemed guilty of a misdemeanor and shall be fined in a sum not more than \$500 or six months in jail, or both so fined and imprisoned, at the discretion of a court of appropriate jurisdiction.

(I) *Junk, scrap metal, precious metal and secondhand dealers, secondhand stores and pawn shops.* Any violation of any provision in §§ 111.150 through 111.161 is classified as a civil offense, pursuant to the authority of KRS 65.8808. The City Code Enforcement Board shall have power to issue remedial orders and impose civil fines to enforce this section. Enforcement of this section shall be in accordance with the procedures outlined in the Code Enforcement Board guidelines located in §§ 92.16 through 92.23. Civil fines for violations of this section shall be those set forth in § 92.99. The city shall possess a lien on property, real or personal, for all fines, penalties, charges, attorney's fees, and other reasonable costs associated with enforcing this code, and the cost of placing of a lien on a parcel of real property pursuant to this code. The lien shall be superior to and have

priority over all other liens, except state, county, school district, and city taxes if all legal requirements are satisfied. In addition to the above civil penalties, a person who violates of any provision in §§ 111.150 through 111.161 may be charged with a Class A misdemeanor, and, upon conviction, shall be subject to a fine and/or jail time in accordance with the penalties for a Class A misdemeanor provided for in the Kentucky Revised Statutes.

(J) *Marriage brokers.* Any person convicted of violating the provisions of § 111.170 shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than \$250 or imprisonment for a period not to exceed 30 days, or both, for the first day's violation. Each day's continued violation shall constitute a separate offense.

(K) *Massage therapists and persons providing massages in exchange for money.* Any person who violates any provision of §§ 111.180, 111.181 shall be guilty of a Class B misdemeanor and shall be subject to a fine and/or jail time in accordance with the penalties for a Class B misdemeanor provided for in the Kentucky Revised Statutes.

(L) *Pool and billiard halls.* Any person who violates any provision of §§ 111.200 through 111.212 shall be deemed guilty of a misdemeanor and shall be fined not more than \$500 or imprisoned for not more than six months, or both fined and imprisoned.

(M) *Public markets.* Any person who violates any provision of §§ 111.250 through 111.256 shall be deemed guilty of a misdemeanor and shall be fined not more than \$500 or imprisoned for not more than six months, or both fined and imprisoned.

(N) *Rental agencies.* No rental agency, agent, or employee shall violate nor participate in the violation of any of the provisions of §§ 111.330 et seq. governing rental agencies. Whoever violates the provisions thereof shall be deemed guilty of a misdemeanor and shall be fined not more than \$250 and/or imprisoned for not more than 90 days. Each transaction that violates any provision of §§ 111.330 et seq. governing rental agencies shall constitute a separate violation.

(O) *Sexually oriented businesses.* Any person violating the provision of §§ 111.600 et seq. shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$500 or imprisonment for a period not to exceed one year, or both.

(P) *Taxicabs.* Any person who violates any provisions of §§ 111.270 through 111.292 shall be deemed guilty of a misdemeanor and shall be fined not more than \$500 or imprisoned for not more than six months, or both fined and imprisoned.

(Q) *Vending cart sales.* Any person, firm, or corporation found guilty of violating the provisions of §§ 111.500 through 111.508 shall be deemed guilty of a misdemeanor and shall be fined not less than \$300 or imprisoned for not more than 60 days, or both, for the first offense, and fined not less than \$500 or imprisoned for not more than 90 days,

or both, for each offense after the first in the same calendar year, plus mandatory revocation of license with the second offense.

(R) *Temporary sale or display of motor vehicles.* Any person who violates any provision of §§ 111.700 through 111.705 shall be guilty of a violation and on conviction shall be punished by a fine of not less than \$100 or more than \$250 for each offense. Each day of such violation shall constitute a separate offense, and no additional notice other than notice of the original offense shall be required to convict a person for violations resulting from a continuation of such offense.

(S) *Garage and yard sales.*

(1) *Civil penalty.* Any violation of §§ 111.801 through 111.806 and § 111.808 is classified as a civil offense pursuant to the authority of KRS 65.8808. Any person who violates §§ 111.801 through 111.806 and § 111.808 shall be subject to a civil fine of not less than \$100 per day per violation but not more than \$500 per day per violation, or the cost to the city to abate the violation of §§ 111.801 through 111.806 and § 111.808, or both. Each day that a violation of §§ 111.801 through 111.806 and § 111.808 continues shall be deemed a separate offense to a maximum of \$10,000 per citation.

(2) *Liens and costs.* The city shall possess a lien on property for all fines, penalties, charges, attorney's fees, and other reasonable costs associated with enforcing this code and placing of a lien on a parcel of real property pursuant to this code. The lien shall be superior to and have priority over all other liens filed subsequently, except state, county, school board, and city taxes.

(3) *Code enforcement officers.* Code enforcement officers are hereby granted authority to issue citations for violations of this §§ 111.801 through 111.806 and § 111.808, but shall not have the powers of peace officers to make arrests or carry deadly weapons. The person receiving a notice of violation shall appear within a designated time pursuant to the citation.

(T) *Commercial quadricycles.* In addition to any other remedy, any person, firm, or corporation found guilty of violating the provisions of §§ 111.040 through 111.044 shall be deemed guilty of a violation and shall be fined not less than \$15 nor more than \$200 for each offense. In addition, the Covington Police Department is hereby authorized to tow any commercial quadricycle for violation of any parking regulation set forth in Chapter 75 of the Covington Code of Ordinances. Nothing herein shall preclude the appropriate citation of an operator or passenger for violation of any other law.

(U) *Mobile Food Vendors.* A violation of §§ 111.550 through 111.558 shall be a civil offense. Any person who violates §§ 111.550 through 111.558 shall be subject to a civil fine of \$200 per day per violation.

(V) Sexual Orientation or Gender Identity Change Efforts. A violation of §§ 111.901 through 111.903 is classified as a civil offense pursuant to the authority of KRS 65.8808. The Code Enforcement Board shall have power

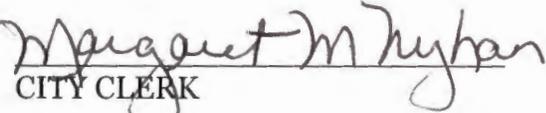
to issue remedial orders and impose civil fines to enforce this section. Enforcement of this section shall be in accordance with the procedures outlined in the Code Enforcement Board guidelines located in §§ 92.16 through 92.23. Civil fines for violations of this section shall be those set forth in § 92.99. The City shall possess a lien on property, real or personal, for all fines, penalties, charges, attorney's fees, and other reasonable costs associated with enforcing this code, and the cost of placing of a lien on a personal or real property pursuant to this code. The lien shall be superior to and have priority over all other liens, except state, county, school district, and city taxes if all legal requirements are satisfied.

Section 3

That this ordinance shall take effect and be in full force when passed, published, and recorded according to law.


MAYOR

ATTEST:


CITY CLERK

Passed: 3-24-20 (Second Reading)

3-10-20 (First Reading)