

Community Services Report to  
SPC on Community and Protective Services  
2020 May 13

ISC: UNRESTRICTED  
CPS2020-0532

## **Banning Conversion Therapy**

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### ***Current and Future Capital Budget:***

There are no current or future capital budget impacts associated with this report.

### **Risk Assessment**

The proposed fine amount for this bylaw is substantially more than other City bylaws, and there is a risk that setting the specified fine to \$10,000 could be challenged in court and lower fines set as a result. Administration believes that this risk is acceptable and has recommended the fine of \$10,000 after careful consideration of other Alberta jurisdictions that have imposed the same fine, as well as the inherent harm and egregious nature of the practice as outlined by numerous health and professional organizations (Attachment 3).

Additionally, there is a risk that the proposed Prohibited Businesses Bylaw may require changes as the federal government amends the criminal code to ban the practice of conversion therapy. Administration believes that this risk is acceptable and will monitor *Bill C-8* and make amendments to the bylaw if there is interference with the federal criminal law. *Bill C-8* had its first reading in 2020 March.

### **REASON(S) FOR RECOMMENDATION(S):**

Council directed Administration to draft a bylaw to prohibit the business practice of conversion therapy within Calgary. This report is in response to the Notice of Motion PFC2020-0116 approved at the Combined Meeting of Council on 2020 February 03.

### **ATTACHMENT(S)**

1. Proposed Prohibited Businesses Bylaw
2. Canadian Survey Result Summaries on Conversion Therapy
3. Position Statements of Major Organizations Against Conversion Therapy
4. Municipal, Provincial, and National Scan
5. What We Heard Stakeholder Report
6. **Public Submissions**

## **Proposed Prohibited Businesses Bylaw**

### ***Proposed Text of a Bylaw to Prohibit Certain Businesses***

**WHEREAS** under the section 3(c) of the *Municipal Government Act*, RSA 2000, c. M-26, the purposes of a municipality are to develop and maintain safe and viable communities;

**AND WHEREAS** Council of the City of Calgary may pass bylaws respecting the safety, health and welfare of people;

**AND WHEREAS** Council of The City of Calgary may, in passing a bylaw, regulate or prohibit, or provide for a system of licenses, permits or approvals, for any development, activity, industry, business or thing, until a license, permit or approval has been granted, which can include terms and conditions, and fines and penalties;

**AND WHEREAS** Council deems it necessary to provide for the regulation and licensing of all businesses carried on within the municipality;

**AND WHEREAS** the practice of conversion therapy is opposed by the Canadian Psychological Association and the College of Alberta Psychologists;

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF CALGARY ENACTS AS FOLLOWS:**

### **PART I**

### **GENERAL**

#### **SHORT TITLE**

1. This Bylaw may be cited as the "Prohibited Businesses Bylaw".

#### **INTERPRETATION AND DEFINITIONS**

2. (1) Unless otherwise specified, words used in this Bylaw have the same meaning as defined in the *Municipal Government Act*.

- (2) In this Bylaw:

(a) "*business*" means:

- (i) a commercial, merchandising or industrial activity or undertaking,
- (ii) a profession, trade, occupation, calling or employment; or
- (iii) an activity providing goods or services;

Whether or not for profit and however organized or formed, including a co-operative or association of persons;

- (b) “*City*” means The City of Calgary;
  - (c) “*City Manager*” means the City’s chief administrative officer or delegate;
  - (d) “*officer*” means a bylaw enforcement officer appointed pursuant to Bylaw 60M86, a peace officer appointed pursuant to the *Peace Officer Act*, SA 2006, C. P-3.5, or a member of the Calgary Police Service;
  - (e) “*person*” means an individual human being or a corporation and includes a partnership, an association or group of persons acting in concert unless the context explicitly or by necessary implication otherwise requires;
- (3) Nothing in this Bylaw relieves a *person* from complying with any Federal or Provincial law or regulation, other bylaw or any requirement of any lawful permit, order or license.
  - (4) Any headings or subheading in this Bylaw are included for guidance purposes and convenience only, and shall not form part of this Bylaw.
  - (5) All Schedules attached to this Bylaw shall form part of this Bylaw.
  - (6) Specific references to laws in this Bylaw are meant to refer to the current laws applicable within the Province of Alberta as at the time this Bylaw was enacted and as they are amended from time to time, including successor legislation.

## PART II

### PROHIBITED BUSINESSES

#### PROHIBITED BUSINESSES

- 3. A *person* must not engage in or operate a business listed in Schedule A.

#### ADVERTISING

- 4. In a prosecution for a contravention of this Bylaw, proof of one transaction in the business or that the business has been advertised is sufficient to establish that a *person* is engaged in or operates the business.

#### SUMMARY CONVICTION OFFENCE

- 5. (1) Any *person* who contravenes any provision of this Bylaw by doing any act or thing which the *person* is prohibited from doing, or by failing to do any act or thing the *person* is required to do, is guilty of an offence pursuant to this Bylaw.
- (2) The owner of real property, who is registered on title at the Land Titles Office, shall be responsible for any act of a *person* carrying on business on the premises located on the property that constitutes an offence under this Bylaw, in the same manner and to the same extent as though the act were done by the owner.

- (3) For the purposes of this Bylaw, an act by an employee or agent of a *person* is deemed to be an act of the *person* if the act occurred in the course of the employee's employment or agency relationship with the *person*.
- (4) If a corporation commits an offence under this Bylaw, every principal, director, manager, officer, employee, or agent of the corporation who authorized, assented to, acquiesced, or participated in the act that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.
- (5) If a partner in a partnership is guilty of an offence under this Bylaw, each partner in the partnership who authorized, assented to, acquiesced, or participated in the act that constitutes the offence is guilty of the offence.
- (6) Any *person* who is convicted of an offence pursuant to subsection (1) is liable on summary conviction to a fine not exceeding TEN THOUSAND (\$10,000.00) DOLLARS and in default of payment of any fine imposed, to a period of imprisonment not exceeding ONE (1) YEAR.

### **SPECIFIED PENALTIES**

6. The specified penalty applicable for an offence under this Bylaw is TEN THOUSAND (\$10,000.00) DOLLARS.

### **ENFORCEMENT**

7. (1) Where an *officer* believes that a *person* has contravened any provision of this Bylaw, the *officer* may commence proceedings against the person by issuing a violation ticket in accordance with the *Provincial Offences Procedure Act*, RSA 200, c. P-34.
- (2) This section shall not prevent an *officer* from issuing a violation ticket requiring a court appearance of the defendant, pursuant to the provisions of the *Provincial Offences Procedures Act*, or from laying an information in lieu of issuing a violation ticket.

### **COMMENCEMENT OF BYLAW**

8. This Bylaw comes into force on the day it is passed.

**SCHEDULE A**  
**PROHIBITED BUSINESSES**

<b>BUSINESS</b>	<b>PROHIBITED BUSINESS ACTIVITY</b>
Conversion Therapy	<p>“Conversion therapy” means a practice, treatment, or service designed to change, repress, or discourage a person’s sexual orientation, gender identity, or gender expression, or to repress or reduce non-heterosexual attraction or sexual behaviour. For greater certainty, this definition does not include a practice, treatment, or service that relates</p> <ul style="list-style-type: none"><li>(a) to a person’s social, medical, or legal gender transition; or</li><li>(b) to a person’s non-judgmental exploration and acceptance of their identity or development</li></ul>