



## Legislation Text

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**TAMRMS#:** B06

### **Bylaw 44/2019 Conversion Therapy Prohibition**

Presented by: Marta Caufield, Deputy City Solicitor, Legal & Legislative Services Department

### **RECOMMENDATION(S)**

That Community Living Standing Committee (CLSC) recommend to Council:

1. That Bylaw 44/2019 be read a first time.
2. That Bylaw 44/2019 be read a second time.
3. That unanimous consent be given for consideration of third reading of Bylaw 44/2019.
4. That Bylaw 44/2019 be read a third and final time.

### **PURPOSE OF REPORT**

The proposed bylaw has been prepared for CLSC consideration to recommend to Council that a stand-alone Conversion Therapy Prohibition Bylaw be passed.

The report also identifies other possible bylaw amendments that may be considered by the Standing Committee in lieu of or in addition to the Conversion Therapy Prohibition Bylaw.

### **ALIGNMENT TO PRIORITIES IN COUNCIL'S STRATEGIC PLAN**

N/A

### **ALIGNMENT TO LEVELS OF SERVICE DELIVERY**

N/A

### **ALIGNMENT TO COUNCIL DIRECTION OR MANDATORY STATUTORY PROVISION**

On July 8, 2019, Council passed the following motions:

CM-19-022

Whereas Council on June 11, 2018 adopted a Declaration that St. Albert embraces diversity and is proud to be a place where all residents and visitors are valued and included;

And Whereas Conversion Therapy seeks to alter through medically and socially unacceptable means the manner in which members of the LGBTQ2S+ community self-identify and express to others their uniqueness as individuals, and as such Conversion Therapy is a cruel and degrading practice, contrary to the principles of Council's June 11, 2018 Declaration and having no place in the welcoming and inclusive community that St. Albert strives to be;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of St. Albert, Alberta fully supports elimination of the practice known as Conversion Therapy, in St. Albert and elsewhere, and strongly urges the Government of Canada to enact legislation making the practice of Conversion Therapy a criminal offence.

And that Administration be directed to prepare a bylaw by December 31, 2019 for Council's consideration to:

Amend the Land Use Bylaw to provide that activities commonly known as "conversion therapy" (i.e., practices or techniques aimed at changing or attempting to change a person's sexual orientation or gender identity or expression) are neither a permitted nor a discretionary use in any land use classification;

Amend the Business Licensing Bylaw to provide that conversion therapy is not a lawful business activity in St. Albert and no business license shall be issued for any person or organization that has conversion therapy as part of its business activities.

Set a fine of \$10,000 for those advertising or offering conversion therapy service for minors within St. Albert.

## **BACKGROUND AND DISCUSSION**

The purpose of the recommended Conversion Therapy Prohibition Bylaw is to prohibit conversion therapy businesses in the City of St. Albert and to prohibit the practice of or the advertising of, conversion therapy performed on minors. Please refer to the previously distributed Administrative Backgrounder dated July 8, 2019 for further information on conversion therapy in Canada.

### What has happened since July 8, 2019?

Since Council's groundbreaking motion on July 8, a tidal wave of change has begun to take place across Alberta municipalities with the following actions currently being taken:

- On August 21, an Edmonton City Council Committee voted to have administration "prepare a bylaw to prohibit the licensing, practice and promotion of conversion therapy" before the end of the year. The proposed City of St. Albert Conversion Therapy Prohibition Bylaw is substantially similar to the bylaw being prepared by Edmonton's administration, although St. Albert's bylaw is broader in that it prohibits the practice and advertising of conversion therapy on minors;
- The Town of Rocky Mountain House has moved to ban conversion therapy by amending the town's Business License Bylaw. The draft bylaw passed first reading on September 17 and is scheduled for second reading on December 17;

- On October 15, Spruce Grove City Council directed administration “to prepare a bylaw to prohibit the practice of conversion therapy.” It is anticipated this will be a stand-alone conversion therapy prohibition bylaw; and
- On October 22, Wood Buffalo’s City Council made a motion that administration “prepare a bylaw to prohibit the licensing, practice and promotion of conversion therapy” and return to Council before the end of the year.

### Stand-Alone Conversion Therapy Prohibition Bylaw

The trend appears to be that most municipalities are choosing to draft stand-alone conversion therapy prohibition or business prohibition bylaws. This is an effective mechanism for the following reasons:

- The prohibition stands alone, front and center, and is not buried within other bylaws, showing the public policy significance behind the issue; and
- In anticipating future changes made to conversion therapy laws, whether made at the federal or provincial level, stand-alone conversion therapy prohibition bylaws may be easily amended, if required or desired.

The St. Albert Conversion Therapy Prohibition Bylaw 44/2019, attached, does the following:

- In the preamble, refers to the “safe and viable communities”, “safety, health, and welfare of people” and “businesses, business activities, and persons engaged in business” municipal purposes listed in the *Municipal Government Act*;
- Includes a well-researched definition of “conversion therapy”;
- Prohibits all conversion therapy businesses in the City, with a broader definition of business, which includes whether the business is undertaken for profit or not;
- Prohibits the practice of conversion therapy or the advertising of that practice, performed on minors; and
- Sets a fine of \$10,000.00 for any contravention of the bylaw.

### **STAKEHOLDER COMMUNICATIONS OR ENGAGEMENT**

Council heard from many community representatives at the July 8 Council meeting. The recommended changes align with what the message relayed by the speakers at the July 8 Council meeting.

Administration has worked in close conjunction with Edmonton’s administration to align the bylaws of Edmonton and St. Albert. The Conversion Therapy Prohibition Bylaw is substantively similar to Edmonton’s approach.

Staff from Planning and Development, Business Licensing, Municipal Enforcement, and Legal Services worked together to prepare the bylaws presented today and staff from these departments support the recommended Conversion Therapy Prohibition Bylaw approach.

## IMPLICATIONS OF RECOMMENDATION(S)

### Financial:

None at this time.

### Legal / Risk:

The best way to legislate conversion therapy prohibition is through criminalizing these acts in the federal *Criminal Code*. A municipality or a Province may not encroach on Parliament's exclusive jurisdiction over the criminal law, but on a municipal level it may be possible to prohibit conversion therapy activities or prohibit persons or businesses from advertising and undertaking conversion therapy within the City in accordance with sections 7 and 8 of the *Municipal Government Act*.

The Land Use Bylaw, which is intended to regulate the use and development of land, is not the recommended mechanism for dealing with conversion therapy in the community. Conversion therapy is not a land use *per se* but is an activity or practice that is accessory or ancillary to the principal land use. Please refer to the previously distributed Confidential Legal Memorandum for further details.

### Program or Service:

None at this time.

### Organizational:

None at this time.

## ALTERNATIVES AND IMPLICATIONS CONSIDERED

If the Community Living Standing Committee does not wish to support the recommendation, the following alternatives could be considered:

### Alternative 1

CLSC could choose to recommend to Council to amend the Business License Bylaw 43/2000 to prohibit conversion therapy businesses from operating in the City. Please see the attached Business License Bylaw redline amendment document for more information.

These amendments are applicable only to conversion therapy businesses, as defined in the Business License Bylaw, which are only those businesses undertaken for the purposes of earning income.

In contrast to the Conversion Therapy Prohibition Bylaw, which sets the fine for engaging in a conversion therapy business or advertising conversion therapy businesses to minors at \$10,000, the Business License Bylaw fine is \$1500 for operating a conversion therapy business (which is in line with the fine amounts for most offences under this bylaw) and \$10,000 for advertising conversion therapy to minors (which is in accordance with Council's July 8 motion).

These are the applicable motions that CLSC could recommend that Council should pass in order to amend the Business License Bylaw in lieu of the Conversion Therapy Prohibition Bylaw:

1. That Bylaw 42/2019, being amendment 22 to the Business License Bylaw 43/2000, be read a first time.
2. That Bylaw 42/2019 be read a second time.
3. That unanimous consent be given for consideration of third reading of Bylaw 42/2019.
4. That Bylaw 42/2019 be read a third and final time.

### Alternative 2

In addition to recommending that Council pass the Conversion Therapy Prohibition Bylaw or the Business License Bylaw amendments, CLSC could also recommend that Council amend the Land Use Bylaw (LUB), in accordance with the LUB amendments attached. No municipalities in Alberta or Canada have amended or are in the process of amending their zoning bylaws to achieve the desired outcome of prohibiting conversion therapy in their municipality and the City of St. Albert would be an outlier in this regard. As explained above, the LUB is not the recommended mechanism for prohibiting conversion therapy in the community.

These are the applicable motions that CLSC could recommend that Council pass in order to amend the LUB:

1. That Bylaw 43/2019, being amendment 173 to the Land Use Bylaw 9/2005, be read a first time.
2. That the public hearing on Bylaw 43/2019 be scheduled for January 2020.

Report Date: December 9, 2019  
Author(s): Marta Caufield  
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Chief Administrative Officer: Kevin Scoble