

1st Reading: October 25, 2016
2nd Reading: January 24, 2017
Adopted: January 24, 2017
Effective Date: January 24, 2017

ORDINANCE NO. 2016-08

AN ORDINANCE OF THE VILLAGE OF EL PORTAL, FLORIDA, TO CREATE A NEW CHAPTER IN THE VILLAGE OF EL PORTAL CODE OF ORDINANCES TO PROHIBIT WITHIN THE GEOGRAPHIC BOUNDARIES OF THE VILLAGE OF EL PORTAL THE USE OF SEXUAL ORIENTATION OR GENDER IDENTITY CHANGE EFFORTS WITH MINORS, INCLUDING REPARATIVE AND CONVERSION THERAPY; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the American Psychiatric Association in December 1998 published a position statement opposing any psychiatric treatment, including reparative or conversion therapy, which therapy regime is based upon the assumption that homosexuality per se is a mental disorder or upon an assumption that a patient should change his or her homosexual orientation; and

WHEREAS, the American Psychological Association's Task Force on Appropriate Therapeutic Responses to Sexual Orientation ("APA Task Force") concluded that sexual orientation change efforts can pose critical health risks to lesbian, gay and bisexual people, including, among other things, confusion, depression, social withdrawal, suicidality, substance abuse, self-hatred, high-risk sexual behaviors, and a feeling of being dehumanized; and

WHEREAS, following the report issued by the APA Task Force, the American Psychological Association issued a resolution in 2009 on Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts, advising parents, guardians, young people and their families to avoid sexual orientation change efforts that portray homosexuality as a mental illness or developmental disorder, and 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 American Academy of Child and Adolescent Psychiatry in 2012 published a statement in its journal that, "[g]iven that there is no evidence that efforts to alter sexual orientation are effective, beneficial or necessary, and the possibility that they carry the risk of significant harm, such interventions are contraindicated"; and

WHEREAS, the American Academy of Pediatrics, the American Medical Association Council on Scientific Affairs, the National Association of Social Workers, the American

Counseling Association Governing Council, and the American Psychoanalytic Association each have asserted in reports or position statements that sexual orientation change efforts, including reparative therapy or conversion therapy, are not recommended and may be harmful; and

WHEREAS, the Pan American Health Organization issued a statement in 2012 that “[t]hese supposed conversion therapies constitute a violation of the ethical principles of health care and violate human rights that are protected by international and regional agreements”; and

WHEREAS, the Village of El Portal has a compelling interest in protecting the physical and psychological well-being of minors, including lesbian, gay, bisexual, transgender, and questioning youth and in protecting its minors against exposure to serious harms caused by sexual orientation change efforts; and

WHEREAS, it is the desire of the Village Council to prohibit within the geographic boundaries of the Village of El Portal the use of sexual orientation or gender identity change efforts with minors, including reparative and conversion therapy, which have been demonstrated to be harmful to the physical and psychological well-being of lesbian, gay, bisexual and transgender persons; now, therefore,

NOW THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF EL PORTAL, FLORIDA:

SECTION 1: Recitals Adopted. The forgoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof

That the Village Council of the Village of El Portal, research finds that being lesbian, gay, bisexual or transgender is not a disease, disorder, illness, deficiency, or shortcoming, and that research has demonstrated sexual orientation change efforts can pose critical health risks to lesbian, gay, bisexual or transgender persons.

A new Chapter shall be created regarding “Sexual Orientation or Gender Identity Change of the Village of El Portal Municipal Code to read as follows:

SECTION 2: Create New Chapter: The Code of Ordinances of the Village of El Portal, Florida is hereby amended to read as follows:

Conversion therapy. Chapter _____

(1) As used in this section, the term "conversion therapy" means any practice or treatment performed with the goal of changing a person's sexual orientation, including, but not limited to, efforts to change behavior, gender identity, or gender expression, or to reduce or eliminate sexual or romantic attraction or feelings toward a person of the same gender. The term does not include counseling that:

- (a) Provides support to a person actively undergoing gender transition; or
 - (b) Provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, if such counseling is not conducted with the goal of changing the person's sexual orientation or gender identity.
- (2) (a) A person who is licensed to provide professional counseling, or who performs counseling as part of his or her professional training under chapter 458, chapter 459, chapter 490, or chapter 491, including, but not limited to, medical practitioners, osteopathic practitioners, psychologists, psychotherapists, social workers, marriage and family therapists, and licensed counselors, may not engage in conversion therapy with a person younger than 18 years of age within the geographic boundaries of the Village of El Portal;
- (b) A licensed professional as described in paragraph (a) who engages in or attempts to engage in conversion therapy with a person younger than 18 years of age within the geographic boundaries of the Village engages in unprofessional conduct and is subject to disciplinary action without regard to whether the mental health professional is compensated or receives any form of remuneration for his or her services. If the village manager or his designee receives a report of a violation of this provision, the village manager or his designee shall mail to licensed professional written notice to immediately cease and desist offering to provide or engaging in conversion therapy. The failure of the licensed professional to immediately cease and desist shall subject the licensed professional to the civil fine provided in paragraph (c).
- (c) Whoever violates this section shall be subject to a civil fine of \$200.00. Each day in violation constitutes a separate offense.

That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

SECTION 3: Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

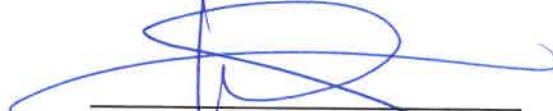
SECTION 4: Inclusion in the Code. It is the intention of the Village Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Village of El Portal, Florida, that the sections of this Ordinance may be renumbered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

SECTION 6: Effective Date. This Ordinance shall be effective upon adoption on second reading.


FIRST READING THIS 25th DAY OF October, 2016.

SECOND READING AND FINAL PASSAGE THIS 24th DAY OF January, 2017.

APPROVED BY THE MAYOR THIS 24th DAY OF January, 2017.



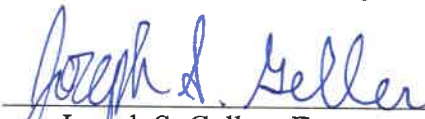
Claudia Cubillos, Mayor

ATTEST: 

Yenise Jacobi, Village Clerk



Approved as to form and legal sufficiency:
Greenspoon Marder, PA, Village Attorneys

By: 

Joseph S. Geller, Esq.

Vote:

- Councilperson Mathis: (Yes) (No)
- Councilperson Dreher: (Yes) (No)
- Councilperson Roman: (Yes) (No)
- Vice Mayor Nickerson.: (Yes) (No)
- Mayor Cubillos: (Yes) (No)