

File No. 130400

Committee Item No. 1  
Board Item No. \_\_\_\_\_

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight Date October 24, 2013

Board of Supervisors Meeting Date \_\_\_\_\_

#### CMTE BOARD

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
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| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>ENVIRONMENTAL REVIEW REQUEST</u> |
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Completed by: Erica Dayrit Date October 17, 2013  
Completed by: \_\_\_\_\_ Date \_\_\_\_\_

1 [Health Code - Massage Practitioners]  
2

3 Ordinance amending the Health Code, to exempt massage practitioners who are  
4 certified by the State of California Massage Therapy Council (CAMTC) and massage  
5 establishments that employ only state CAMTC-certified massage practitioners from  
6 requirements for obtaining a permit from the San Francisco Health Department; require  
7 massage establishments that employ only CAMTC-certified massage practitioners to  
8 pay an annual license fee; increasing the licensing fees for all establishments and  
9 practitioners; and making environmental findings.

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
13 **Board amendment additions** are in double-underlined Arial font.  
14 **Board amendment deletions** are in ~~Arial font~~.  
15 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
16 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. The Planning Department has determined that the actions contemplated in  
18 this ordinance comply with the California Environmental Quality Act (California Public  
19 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the  
20 Board of Supervisors in File No. 130400 and is incorporated herein by reference.

22 Section 2. The Health Code is hereby amended by revising Article 29, to read as  
23 follows:  
24  
25

ARTICLE 29

LICENSING AND REGULATION OF MASSAGE PRACTITIONERS

- 1
- 2
- 3
- 4 Sec. ~~1900~~29.1. Definitions.
- 5 Sec. ~~1901~~29.2. Permit Required for Massage Practitioner; Exemption.
- 6 Sec. ~~1902~~29.3. Application for Massage Practitioner Permit; General and Advanced  
7 Practitioners, *for Practitioners Not Certified by the StateCAMTC.*
- 8 Sec. ~~1903~~29.4. Issuance of Massage Practitioner Permit, *for Practitioners Not Certified by*  
9 *the StateCAMTC.*
- 10 Sec. ~~1904~~29.5. Temporary Massage Practitioner Permit; Trainee Permit, *for Practitioners*  
11 *Not Certified by the StateCAMTC.*
- 12 Sec. ~~1905~~29.6. Identification Card, *for Practitioners Not Certified by the StateCAMTC.*
- 13 Sec. ~~1906~~29.7. Massage Practitioner License Fee.
- 14 Sec. ~~1907~~29.8. Revocation of Massage Practitioner Permit, *for Practitioners Not Certified*  
15 *by the StateCAMTC.*
- 16 Sec. 29.9. Registration Of Massage Establishments That Employ Only State CAMTC  
17 Certified Practitioners.
- 18 Sec. ~~1908~~29.10. Permit Required for a Massage Establishment, Solo Practitioner Massage  
19 Establishment, or Outcall Massage Service, Exemptions *for Practitioners*  
20 *Not Certified by the StateCAMTC.*
- 21 Sec. ~~1909~~29.11. Application for Massage Establishment, Solo Practitioner Massage  
22 Establishment, or Outcall Massage Service Permit *for Practitioners Not*  
23 *Certified by the StateCAMTC.*
- 24 Sec. ~~1910~~29.12. Operating Requirements Facilities Necessary for All Massage  
25 Establishments.

- 1 ~~Sec. 1911. Facilities Necessary for Solo Practitioner Massage Establishment.~~
- 2 Sec. 191229.13. Referral of Permit Application to Other Departments, for Practitioners Not
- 3 Certified by the StateCAMTC.
- 4 Sec. 191329.14. Issuance of Massage Establishment, Solo Practitioner Massage
- 5 Establishment, or Outcall Massage Service Permit, for Practitioners Not
- 6 Certified by the StateCAMTC.
- 7 ~~Sec. 1914. Operating Requirements for Massage Establishment.~~
- 8 Sec. 191529.15. Employment of Massage Practitioners.
- 9 Sec. 191629.16. Register of Employees.
- 10 Sec. 191729.17. Employment of Persons Under the Age of 18 Prohibited.
- 11 Sec. 191829.18. Display of Permit; Hours of Operation.
- 12 Sec. 191929.19. Inspection.
- 13 Sec. 192029.20. Massage Establishment, Solo Practitioner Massage Establishment, or
- 14 Outcall Massage Service License Fee.
- 15 Sec. 192129.21. Revocation of Massage Establishment, Solo Practitioner Massage
- 16 Establishment, or Outcall Massage Service Permit, for Practitioners not
- 17 Certified by the StateCAMTC.
- 18 Sec. 192229.22. Hearings.
- 19 Sec. 192329.23. Transfer of Permit.
- 20 ~~Sec. 1924. Existing Permits.~~
- 21 Sec. 192529.24. Business Tax and Zoning Information, Resources for Massage
- 22 Practitioners.
- 23 Sec. 192629.25. Rules and Regulations; Complaint Line.
- 24 Sec. 192729.26. Fees.
- 25 Sec. 192829.27. Violations and Administrative Penalties.

- 1     Sec. ~~1928.129.28.~~     Cost Recovery.  
2     Sec. ~~1928.229.29.~~     Violations and Criminal Penalties.  
3     Sec. ~~1929.30.~~         Cooperative Efforts with Law Enforcement.  
4     Sec. ~~1930.31.~~         Disclaimer.  
5     Sec. ~~1931.32.~~         Severability.

6  
7             **SEC. ~~1900.1.~~ DEFINITIONS.**

8             For the purposes of this Article:

9             ~~(a)~~ "City" means the City and County of San Francisco.

10            "CAMTC" means the California Massage Therapy Council as defined in the California  
11 Business and Professions Code §4600(e), or any successor agency.

12            ~~(b)~~ "Convicted" means having pled guilty or having received a verdict of guilty,  
13 including a verdict following a plea of nolo contendere, to a crime.

14            ~~(c)~~ "Director" means the Director of Public Health or any individual designated by the  
15 Director to act on his or her behalf.

16            ~~(d)~~ "Massage" means any method of pressure on or friction against, or stroking,  
17 kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft pads of the  
18 body with the hands or with the aid of any mechanical electrical apparatus or appliances, with  
19 or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder,  
20 lotions, ointments, or other similar preparations.

21            ~~(e)~~ "Massage establishment" means a fixed place of business where more than one  
22 person engages in or carries on, or permits to be engaged in or carried on, the practice of  
23 massage.

24            ~~(f)~~ "Massage practitioner" means any individual who, for any monetary consideration  
25 whatsoever, engages in the practice of massage. "Massage practitioner" shall include both

1 general massage practitioners and advanced massage practitioners, as provided in  
2 Section ~~1901~~29.2.

3 ~~(g)~~ "Non-profit organization" means any fraternal, charitable, religious, benevolent, or  
4 any other nonprofit organization having a regular membership association primarily for mutual  
5 social, mental, political, and civic welfare, to which admission is limited to the members and  
6 guests and revenue accruing therefrom to be used exclusively for the benevolent purposes of  
7 said organization and which organization or agency is exempt from taxation, under the  
8 Internal Revenue Laws of the United States as a bona fide fraternal, charitable, religious,  
9 benevolent, or non-profit organization.

10 ~~(h)~~ "Outcall massage service" means any business, not permitted as a massage  
11 establishment or solo practitioner massage establishment under the provisions of this Article,  
12 wherein the primary function of such business is to engage in or carry on massage not at a  
13 fixed location but at a location designated by the client or customer.

14 ~~(i)~~ "Permittee" means the owner, proprietor, manager, or operator of a massage  
15 establishment, outcall massage service, or solo practitioner massage establishment.

16 ~~(j)~~ "Person" means any individual, partnership, firm, association, joint stock company,  
17 corporation, or combination of individuals of whatever form or character.

18 ~~(k)~~ "Recognized school for massage" means any school or institution of learning which  
19 teaches the theory, ethics, practice, profession, and work of massage, which requires a  
20 resident course of study of not less than 100 hours to be completed before the student shall  
21 be furnished with a diploma or certificate of graduation, and which has been approved  
22 pursuant to California Education Code Sections 94301 et seq., or, if said school or institution  
23 is not located in California, has complied with standards commensurate with those required in  
24 said Sections 94301 et seq. and has obtained certification under any similar state approval  
25 program, if such exists.

1           ~~(#)~~ "Solo practitioner massage establishment" means a fixed place of business where a  
2 person holding an advanced massage practitioner permit engages in or carries on, or permits  
3 to be engaged in or carried on, the practice of massage. Said fixed place of business may be  
4 shared by two to four advanced massage practitioners, or two to four advanced massage  
5 practitioners and one or more health or healing arts practitioners, except as otherwise  
6 provided pursuant to Section ~~191329.14~~(e).

7           **SEC. ~~190129.2~~. PERMIT REQUIRED FOR MASSAGE PRACTITIONER;**  
8 **EXEMPTIONS.**

9           (a) It shall be unlawful for any individual *who is not certified as a massage practitioner or*  
10 *therapist by the State of California-CAMTC pursuant to the California Business and Professions*  
11 *Code* to engage in the practice of massage without first obtaining a permit from the Director.

12           (b) An individual may receive a permit as either a general massage practitioner or an  
13 advanced massage practitioner, as provided in Section ~~190229.3~~. As used in this Article, the  
14 term "massage practitioner" shall refer to both general massage practitioners and advanced  
15 massage practitioners, unless otherwise specifically provided in ~~the ordinance~~*this Article*.

16           (c) A permit is not required where the individual is a licensed or certificated health care  
17 practitioner practicing massage as part of his or her health care practice. For purposes of this  
18 Section, "health care practitioner" shall mean any person whose activities are licensed or  
19 regulated under Division 2 of the California Business and Professions Code or any initiative  
20 act referred to in that division.

21           (d) A permit is not required where the individual is a barber, cosmetologist, esthetician,  
22 or manicurist licensed or certificated pursuant to Division 3, Chapter 10, of the California  
23 Business and Professions Code, practicing massage as part of his or her work as a barber,  
24 cosmetologist, esthetician, or manicurist and within the scope of any relevant state restrictions  
25 on the practice of massage by members of those professions.

1 (e) An individual practicing massage under the direction of a non-profit organization,  
2 and the organization itself are exempt from permit and license fees under this Article, but the  
3 individual and the organization must obtain the necessary permits and licenses and otherwise  
4 comply with all relevant requirements.

5 **SEC. ~~190229.3.~~ APPLICATION FOR MASSAGE PRACTITIONER PERMIT;**  
6 **GENERAL AND ADVANCED PRACTITIONERS NOT CERTIFIED BY THE STATECAMTC.**

7 (a) Unless certified as a massage practitioner or therapist by the State of CaliforniaCAMTC  
8 pursuant to the California Business and Professions Code, Every applicant for a massage  
9 practitioner permit shall file an application with the Director upon a form provided by the  
10 Director and pay a non-refundable application fee, as set forth in Section ~~192729.26.~~

11 (b) The application for a massage practitioner permit shall set forth, under penalty of  
12 perjury, the following:

13 (1) Name and residence address of the applicant;

14 (2) A unique identifying number from at least one government-issued form of  
15 identification, such as a social security card, a state driver's license or identification card, or a  
16 passport;

17 (3) Written evidence that the applicant is at least 18 years of age;

18 (4) Applicant's height, weight, and color of hair and eyes;

19 (5) Business, occupation, or employment of the applicant for the five years  
20 immediately prior to the date of application; this information shall include, but not be limited to,  
21 a statement as to whether or not the applicant, in working as a massage practitioner or  
22 bodywork technician or similar occupation under a permit or license, has had such permit or  
23 license revoked or suspended, and the reasons therefor; and

24 (6) All felony or misdemeanor convictions.



1 (c) An applicant for a general massage practitioner permit shall provide, as part of the  
2 application, the name and address of the recognized school for massage attended, the dates  
3 attended, and the original of the diploma or certificate of completion awarded the applicant  
4 showing that the applicant has completed not less than 100 hours of instruction. An applicant  
5 for an advanced massage practitioner permit shall provide, as part of the application, the  
6 name and address of the recognized school or schools for massage attended, the dates  
7 attended, and the original of the diploma(s) or certificate(s) of completion awarded the  
8 applicant showing that the applicant has completed not less than 200 hours of instruction.  
9 The additional 100 hours of instruction required for the advanced massage practitioner permit  
10 may be completed at one or more schools. If the applicant already holds a current general  
11 massage practitioner permit, he or she need only submit documentation for the additional 100  
12 hours of instruction necessary for the advanced massage practitioner permit.

13 (d) The Director shall administer a culturally-sensitive test to all applicants, in the  
14 applicant's own language, to confirm basic proficiency in massage before issuing a permit.

15 (e) The Director is hereby authorized to require in the application any other information  
16 including, but not limited to, any information necessary to discover the truth of the matters set  
17 forth in the application.

18 **SEC. ~~190329.4~~. ISSUANCE OF MASSAGE PRACTITIONER PERMIT FOR**  
19 **PRACTITIONERS NOT CERTIFIED BY THE STATE CAMTC.**

20 (a) Within 14 days following a hearing, or, if no hearing is held, within 60 business  
21 days following receipt of a completed application for a massage practitioner permit, for a  
22 practitioner who is not certified as a massage practitioner or therapist by the State of  
23 California CAMTC pursuant to the California Business and Professions Code the Director shall  
24 either issue the permit or mail a written statement of his or her reasons for denial thereof to  
25 the applicant. If the Director takes neither action, the permit shall ~~be~~ be deemed issued.

1 (b) No massage practitioner permit shall be issued if the Director finds:

2 (1) The applicant has provided materially false documents or testimony; or

3 (2) The applicant has not complied fully with the provisions of this Article; or

4 (3) Within five years immediately prior to the date of application, the applicant  
5 has had any license or permit related to the practice of massage revoked; or

6 (4) The applicant has been convicted of any of the following offenses or  
7 convicted of an offense outside the State of California that would have constituted any of the  
8 following offenses if committed within the State of California:

9 (iA) Any felony involving the use of coercion or force and violence upon  
10 another person; or

11 (iiB) Any misdemeanor sexual battery; or

12 (iiiC) Any offense involving sexual misconduct with children; or

13 (ivD) Any offense requiring registration pursuant to Section 290 of the  
14 California Penal Code.

15 (c) The Director may issue a massage practitioner permit to any individual convicted of  
16 one of the offenses listed in Subsection (b)(4) of this Section if the Director finds that the  
17 offense was not violent, the conviction occurred at least five years prior to the date of  
18 application, and the applicant has not been convicted subsequently of one of those offenses.

19 (d) If an application for a massage practitioner permit is denied, within 30 days of the  
20 date of receipt of the notice of denial, the applicant may appeal the decision by notifying the  
21 Director in writing. The notice shall set forth in detail the ground or grounds for the appeal.  
22 Within 30 days of receipt of the notice of appeal, the Director shall conduct a hearing to  
23 consider the appeal. At least 10 days prior to the hearing, the Director shall notify the  
24 applicant of the time and place of the hearing. The Director shall oversee the hearing, provide  
25

1 the applicant an opportunity to speak at the hearing, and issue a ruling within 30 days of its  
2 conclusion. The Director's ruling shall be final.

3 **SEC. ~~190429.5~~. TEMPORARY MASSAGE PRACTITIONER PERMIT; TRAINEE**  
4 **PERMIT FOR PRACTITIONERS NOT CERTIFIED BY THE STATECAMTC.**

5 (a) Upon completion and submission of an application for a massage practitioner  
6 permit for a practitioner who is not certified as a massage practitioner or therapist by the State of  
7 CaliforniaCAMTC pursuant to the California Business and Professions Code, as required in Section  
8 ~~190229.3~~ of this Article, and upon payment of all fees for the permit, an applicant may request  
9 a temporary massage practitioner permit. If requested, the Director shall issue the temporary  
10 massage practitioner permit which is valid for the period during which the application is under  
11 review, but in no event for more than 60 days. The Director may revoke the permit at any  
12 time if he or she finds that the applicant has failed to meet any of the requirements of Section  
13 1903 of this Article.

14 (b) The Director may adopt rules and procedures for issuing trainee permits, not to  
15 exceed three months in duration, to persons who have otherwise completed an application for  
16 a massage practitioner permit and who are currently registered in a recognized school of  
17 massage to fulfill the training requirement.

18 **SEC. ~~190529.6~~. IDENTIFICATION CARD FOR PRACTITIONERS NOT CERTIFIED BY**  
19 **THE STATECAMTC.**

20 The Director shall provide all massage practitioners, who are not certified as a massage  
21 practitioner or therapist by the State of CaliforniaCAMTC pursuant to the California Business and  
22 Professions Code, granted a permit with an identification card. The identification card must be  
23 presented to any City health inspector upon request at all times during the regular business  
24 hours of any massage establishment or solo practitioner massage establishment.

25 **SEC. ~~190629.7~~. MASSAGE PRACTITIONER LICENSE FEE.**

1 Every massage practitioner shall pay to the Tax Collector an annual license fee, as set  
2 forth in Section ~~192729.26~~.

3 **SEC. ~~190729.8~~. REVOCATION OF MASSAGE PRACTITIONER PERMIT, FOR**  
4 **PRACTITIONERS NOT CERTIFIED BY THE STATE CAMTC.**

5 (a) The Director may revoke or suspend any massage practitioner permit *for a*  
6 *practitioner who is not certified as a massage practitioner or therapist by the State of California*  
7 *CAMTC pursuant to the California Business and Professions Code*, after a public hearing, if the  
8 Director finds:

9 (1) The massage practitioner willfully violated any of the provisions of this  
10 Article; or

11 (2) The massage practitioner has provided materially false documents or  
12 testimony; or

13 (3) Within five years immediately prior to the date of application, the massage  
14 practitioner has had any license or permit related to the practice of massage revoked; or

15 (4) The massage practitioner has violated a rule or regulation adopted by the  
16 Director pursuant to Section ~~192629.25~~.

17 (b) Before any hearing is conducted under this Section, the Director shall provide the  
18 massage practitioner at least 20 days written notice. The notice shall include the time, place,  
19 and grounds for the hearing. If requested by the massage practitioner, the Director shall  
20 make available all documentary evidence against him or her no later than 15 days prior to the  
21 hearing. At the hearing, the massage practitioner shall be provided an opportunity to refute all  
22 evidence against him or her. The Director shall oversee the hearing and issue a ruling within  
23 20 days of its conclusion. The Director's ruling shall be final.

24 (c) The Director may suspend summarily any massage practitioner permit issued  
25 under this Article pending a noticed hearing on revocation or suspension when in the opinion

1 of the Director the public health or safety requires such summary suspension. Any affected  
2 permittee shall be given notice of such summary suspension in writing delivered to said  
3 permittee in person or by registered letter.

4 **SEC. 29.9. REGISTRATION OF MASSAGE ESTABLISHMENTS THAT EMPLOY ONLY**  
5 **STATECAMTC CERTIFIED PRACTITIONERS.**

6 (a) All massage establishments that employ only massage practitioners who are certified by the  
7 State of CaliforniaCAMTC pursuant to the California Business and Professions Code, must provide  
8 copies of those certificates, and the home and work addresses of those massage practitioners to  
9 the San Francisco Department of Public Health for all massage practitioners employed by the  
10 establishment. The massage establishment must update this information annually provide notice of  
11 any changes within thirty (30) days.

12 (b) All massage establishments that employ only massage practitioners who are certified by the  
13 state CAMTC must notify the Department if any stateCAMTC certified massage practitioner loses  
14 their stateCAMTC certification.

15 (c) Any massage establishment that employs any massage practitioner who is not certified by  
16 the state CAMTC must obtain a permit to operate a massage establishment from the San Francisco  
17 Department of Public Health in accordance with this Article 29.

18 (d) Upon notice from California Massage Therapy CouncilCAMTC, or any successor  
19 agency authorized under the California Business and Professions Code to certify massage  
20 practitioners, that the state CAMTC certification of a massage practitioner has been suspended or  
21 revoked, the Department shall send written notice to the massage establishment that it must obtain a  
22 permit from the San Francisco Department of Public Health in order to continue to operate, and that it  
23 must apply for the permit within thirty (30) days of the notice. Failure to either apply for a San  
24 Francisco permit or to regain exempt status by employing only stateCAMTC-certified massage  
25

1 practitioners within thirty (30) days, may result in administrative penalties as set forth in this Article  
2 29, Section 29.27.

3 **SEC. ~~1908~~29.10. PERMIT REQUIRED FOR A MESSAGE ESTABLISHMENT, SOLO**  
4 **PRACTITIONER MESSAGE ESTABLISHMENT, OR OUTCALL MESSAGE SERVICE,**  
5 **EXEMPTIONS FOR PRACTITIONERS NOT CERTIFIED BY THE STATE CAMTC.**

6 (a) It shall be unlawful for any person to engage in, conduct, or carry on, or to permit to  
7 be engaged in, conducted, or carried on, in or upon any premises in the City the operation of  
8 a massage establishment, solo practitioner massage establishment, or outcall massage  
9 service without first obtaining a permit from the Director, unless all persons employed by that  
10 establishment or service are certified as massage practitioner(s) or therapist(s) by the State of  
11 California CAMTC pursuant to the California Business and Professions Code.

12 (b) Hospitals, nursing homes, and other State-licensed health care facilities providing  
13 massage services to their patients shall not be required to obtain a permit under this Section,  
14 where the services are provided by a licensed or certificated health care practitioner or an  
15 individual practicing massage under the direction of a health care practitioner. For purposes  
16 of this Section, "health care practitioner" shall mean any person whose activities are licensed  
17 or regulated under Division 2 of the California Business and Professions Code or any initiative  
18 act referred to in that division.

19 (c) A permit shall not be required under this Section where the services are provided  
20 on the premises (1) by a licensed or certificated health care practitioner or (2) by a barber,  
21 cosmetologist, esthetician, or manicurist, licensed or certificated pursuant to Division 3,  
22 Chapter 10, of the California Business and Professions Code, practicing massage as part of  
23 his or her work as a barber, cosmetologist, esthetician, or manicurist, and within the scope of  
24 any relevant state restrictions on the practice of massage by members of those professions.  
25 A non-profit organization providing massage services on its premises, and the individuals

1 providing the massage services, are exempt from permit and license fees under this Article,  
2 but the organization and the individuals must obtain the necessary permits and licenses and  
3 otherwise comply with all relevant requirements.

4 **SEC. ~~190929.11~~. APPLICATION FOR MASSAGE ESTABLISHMENT, SOLO**  
5 **PRACTITIONER MASSAGE ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE**  
6 **PERMIT FOR PRACTITIONERS NOT CERTIFIED BY THE STATE CAMTC.**

7 (a) Unless certified as a massage practitioner or therapist by the State of California CAMTC  
8 pursuant to the California Business and Professions Code, Every applicant for a massage  
9 establishment, solo practitioner massage establishment, or outcall massage service permit  
10 shall file an application with the Director upon a form provided by the Director and pay a non-  
11 refundable application fee, as set forth in Section ~~192729.26~~.

12 (b) The application shall set forth, under penalty of perjury, the following:

13 (1) The exact nature of the services to be rendered;

14 (2) The address of the proposed place of business and facilities thereof, and a  
15 copy of the rental agreement or lease showing the names of all of the tenants or lessees;

16 (3) The number of individuals to be employed by the business, and, in the case  
17 of a solo massage practitioner establishment, the names of any massage practitioners who  
18 shall operate under that permit;

19 (4) The name, residence address, and date of birth of each applicant;

20 (5) Any history of previous massage permits or licenses in San Francisco or  
21 issued by CAMTC or elsewhere, including whether any such permit or license has been  
22 revoked and the reasons therefor, for each applicant; and

23 (6) All felony or misdemeanor convictions for the applicant.

24 (c) The Director is hereby authorized to require in the application any other information  
25 including, but not limited to, information related to the health, hygiene, and sanitation of the

1 premises and any information necessary to confirm the accuracy of the matters set forth in the  
2 application.

3 (d) If an applicant for a massage establishment or outcall massage service permit is a  
4 corporation, the name of the corporation shall be set forth exactly as shown in its articles of  
5 incorporation together with the names and residence addresses of each of the officers,  
6 directors, and each stockholder holding more than 10 percent of the stock of the corporation.  
7 If the application is a partnership, the application shall set forth the name and the residence  
8 address of each of the partners, including limited partners. If one or more of the partners is a  
9 corporation, the provisions of this Section pertaining to corporate applicants applies. The  
10 same permit and criminal history information required of individual applicants shall be  
11 provided for each officer, director, and stockholder holding more than 10 percent of the stock  
12 of the corporation, or for each partner, including limited partners.

13 (e) In addition to the information required under subsections (b) and (c), an applicant  
14 for a solo practitioner massage establishment permit shall provide proof that he or she holds a  
15 current, valid advanced massage practitioner permit issued by the Director under Section  
16 1901.

17 (f) Applicants shall also submit proof of compliance with any applicable Planning Code  
18 requirements regarding notice and posting of the proposed establishment.

19 (g) An advanced massage practitioner holding a solo practitioner massage  
20 establishment permit shall not be required to pay any additional permit fee for an outcall  
21 massage service permit.

22 **SEC. ~~191029.12.~~ FACILITIES NECESSARY OPERATING REQUIREMENTS FOR ALL**  
23 **MASSAGE ESTABLISHMENTS.**



1            ~~No permit to conduct a massage establishment shall be issued unless an inspection by the~~  
2 ~~Director reveals that the All massage establishments must compliesy with each of the following~~  
3 ~~reasonable health and safety requirements:~~

4            (a) Toilet facilities shall be provided for patrons in convenient locations.

5            (1) Construction of rooms used for toilets, tubs, steam baths, and showers shall  
6 be made waterproof with hard nonabsorbent materials which are easily cleaned and shall be  
7 installed in accordance with the San Francisco Building Code.

8            (2) Plumbing fixtures shall be installed in accordance with the San Francisco  
9 Plumbing Code.

10           ~~(1) For toilet rooms, toilet room vestibules, and rooms containing bathtubs, there shall~~  
11 ~~be a waterproof floor covering, which will be carried up all walls to a height of at least five inches.~~  
12 ~~Floors shall be coved at the juncture of the floor and wall with a inch minimum radius coving.~~

13           ~~(2) Steam rooms and shower compartments shall have waterproof floors, walls, and~~  
14 ~~ceilings approved by the Director.~~

15           ~~(3) Floors of wet and dry heat rooms shall be adequately pitched to one or more floor~~  
16 ~~drains properly connected to the sewer. Dry heat rooms with wooden floors need not be provided with~~  
17 ~~pitched floors and floor drains.~~

18           ~~(4) A source of hot water must be available within the vicinity of dry and wet heat~~  
19 ~~rooms to facilitate cleaning.~~

20           ~~(b) Toilet facilities shall be provided in convenient locations. When five or more employees or~~  
21 ~~patrons of different genders are on the premises at the same time, separate toilet facilities shall be~~  
22 ~~provided. A single toilet shall be provided for each 1.5 or more persons of the same gender on the~~  
23 ~~premises at any one time.~~

24           (3) Urinals may be substituted for toilets after one toilet has been provided.

25           (4) Doors to toilet rooms shall open inward and be self-closing.

1           (5) Toilet rooms shall be designated as to the gender accommodated therein.

2           **(b) Handwashing facilities shall be provided within, or adjacent to the toilet rooms and shall be**  
3 **equipped with an adequate supply of hot and cold running water under pressure.**

4           ~~(c)(1) Lavatories or wash basins with both hot and cold running water shall be~~  
5 ~~installed in either the toilet room or the vestibule.~~ Lavatories or wash basins must have soap in a  
6 dispenser and sanitary towels.

7           **(2) handwashing facilities shall be readily accessible to the massage practitioner.**

8           ~~(d)~~ All portions of the massage establishment shall be provided with adequate light  
9 and ventilation by means of windows or skylights with an area of not less than of the total floor  
10 area, or shall be provided with an approved artificial light and a mechanical operating  
11 ventilating system. ~~When windows or skylights are used for ventilation, at least 1/2 of the total~~  
12 ~~required window area shall be operable. To allow for adequate ventilation, cubicles, rooms, and areas~~  
13 ~~provided for the use of patrons not served directly by a window, skylight, or mechanical system of~~  
14 ~~ventilation shall be constructed so that the height of the partitions does not exceed 75 percent of the~~  
15 ~~floor to ceiling height of the area in which they are located.~~

16           **(1) Toilet, dressing and massage rooms shall be provided with at least 108 lux (10 foot**  
17 **candles) of light.**

18           ~~(e2)~~ All electrical equipment shall be installed in accordance with the  
19 requirements of the San Francisco Electrical Code.

20           **(d) A room, enclosure, or designated area shall be provided where patrons can change and**  
21 **store their clothes.**

22           **(e) A room, enclosure, or designated area, which is separate from the toilet, massage room(s),**  
23 **steam room, or other common areas shared by the patrons shall be made available for each employee.**

24           **(f) Every portion of a massage establishment, including appliances and apparatus, shall be**  
25 **kept clean and operated in a sanitary condition.**

1                   (1) Adequate and suitable space shall be provided for storage of clean linens,  
2 including but not limited to, sheets, towels, apparel.

3                   (2) Every massage establishment shall provide clean laundered sheets and towels  
4 and shall launder them after each use and store them in a sanitary manner.

5                   (3) No towels or sheets shall be laundered or dried in any massage establishment  
6 unless such massage establishment is provided with laundry facilities for such laundering and drying.

7                   (4) The massage establishment shall provide smooth, cleanable appropriately labeled  
8 receptacles for the storage of soiled linens and paper towels.

9                   (5) The massage establishment shall appropriately bag and dispose of soiled refuse.

10                  (6) Every massage establishment shall thoroughly clean its wet and dry heat rooms,  
11 shower compartments, and toilet rooms each business day.

12                  (7) Bathtubs shall be thoroughly cleaned and sanitized after each use.

13                  (g) Any room in which a massage establishment provides massage services shall not be used  
14 for residential or sleeping purposes; provided, however, that the Director may allow such room to be  
15 used for residential or sleeping purposes if the Director finds that the health and safety of the patrons  
16 of the massage establishment will not be jeopardized.

17                  **SEC. 1911. FACILITIES NECESSARY FOR SOLO PRACTITIONER MASSAGE**  
18 **ESTABLISHMENT.**

19                  ~~No permit to conduct a solo practitioner massage establishment shall be issued unless an~~  
20 ~~inspection by the Director reveals that the solo practitioner massage establishment complies with each~~  
21 ~~of the following requirements:~~

22                  ~~(a) Toilet facilities shall be provided for patrons.~~

23                  ~~(b) Rooms used for toilets, tubs, steam baths, and showers, including the floors, walls, and~~  
24 ~~ceilings of those rooms, shall be constructed from hard, durable, and nonabsorbent materials which~~  
25 ~~are easily cleaned.~~

1           ~~(c) Handwashing facilities shall be provided within or adjacent to toilet rooms and shall be~~  
2 ~~equipped with an adequate supply of hot and cold running water under pressure.~~

3           ~~(d) Handwashing facilities shall be readily accessible to the massage practitioner and shall be~~  
4 ~~equipped with an adequate supply of hot and cold running water under pressure.~~

5           ~~(e) A room, enclosure, or designated area shall be provided where patrons may change and~~  
6 ~~store their clothes.~~

7           ~~(f) Toilet and dressing rooms and massage rooms shall be provided with at least 108 lux (10~~  
8 ~~footcandles) of light.~~

9           ~~(g) Smooth and cleanable containers shall be provided for soiled linens.~~

10          ~~(h) Adequate and suitable space shall be provided for storage of clean linens, including towels,~~  
11 ~~apparel, etc.~~

12          ~~(i) All portions of the facility used by patrons shall be provided with adequate ventilation.~~

13           **SEC. ~~191229.13~~. REFERRAL OF PERMIT APPLICATION TO OTHER**  
14 **DEPARTMENTS, FOR PRACTITIONERS NOT CERTIFIED BY THE STATE CAMTC.**

15           The Director, within 10 days of receiving an application for a permit to operate a  
16 massage establishment or solo practitioner massage establishment permit where one or more  
17 practitioners are not certified as a massage practitioner or therapist by the State of California  
18 CAMTC pursuant to the California Business and Professions Code, shall refer the application to the  
19 City Department of Building Inspection and the City Police, Fire, and Planning Departments.  
20 Said departments shall inspect the premises proposed to be operated as a massage  
21 establishment or a solo practitioner massage establishment and shall make written findings to  
22 the Director concerning compliance with codes that they administer.

23           The Director shall notify the Police Department of all approved permit applications.

1                   **SEC. ~~191329.14~~. ISSUANCE OF MASSAGE ESTABLISHMENT, SOLO**  
2                   **PRACTITIONER MASSAGE ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE**  
3                   **PERMIT, FOR PRACTITIONERS NOT CERTIFIED BY THE STATE CAMTC.**

4                   (a) Within 14 days following a hearing, or, if no hearing is held, within 60 business  
5                   days, following receipt of a completed application for a massage establishment, solo  
6                   practitioner massage establishment, or outcall massage service permit where one or more  
7                   practitioners are not certified as a massage practitioner or therapist by the State of California  
8                   CAMTC pursuant to the California Business and Professions Code, the Director shall either issue  
9                   the permit or mail a written statement of his or her reasons for denial thereof to the applicant.  
10                  If the Director takes neither action, the permit shall be deemed issued.

11                  (b) No massage establishment, solo practitioner massage establishment, or outcall  
12                  massage service permit shall be issued if the Director finds:

13                         (1) The applicant has provided materially false documents or testimony; or

14                         (2) The operation as proposed by the applicant would not comply with all  
15                         applicable laws including, but not limited to, the City Building, Planning, Housing, and Fire  
16                         Codes or any rule or regulation adopted by the Director pursuant to this Article; or

17                         (3) Within five years immediately prior to the date of application, the applicant  
18                         has had any license or permit related to the practice of massage revoked; or

19                         (4) The applicant and any other individual who will be directly engaged in the  
20                         management and operation of the massage establishment, solo practitioner massage  
21                         establishment, or outcall massage service has been convicted of any of the following offenses  
22                         or convicted of an offense outside the State of California that would have constituted any of  
23                         the following offenses if committed within the State of California:

24                                 (~~i~~A) Any felony involving the use of coercion or force and violence upon  
25                                 another person; or

1           (~~##B~~) Any misdemeanor sexual battery; or

2           (~~##C~~) Any offense involving sexual misconduct with children;

3           (~~##D~~) Pimping or pandering; or

4           (~~##E~~) Any offense requiring registration pursuant to Section 190 of the California  
5 Penal Code.

6           (c) The Director may issue a permit authorized under this Section to any individual  
7 convicted of one of the offenses listed in Subsection (~~##b~~)(4) of this Section if the Director finds  
8 that the offense was not violent, the conviction occurred at least five years prior to the date of  
9 application, and the applicant has not been convicted subsequently of one of those offenses.

10          (d) The Director may refuse to issue any permit authorized under this Section in any  
11 case where there is reasonable grounds to determine that the premises or the business will  
12 be or are being managed, conducted, or maintained in such a manner as to endanger the  
13 health or safety of the employees or patrons thereof or to coerce any employee to engage in  
14 any illegal conduct.

15          (e) Notwithstanding the provisions of Section ~~190029.1(4)~~, the Director may issue a  
16 solo practitioner massage establishment permit authorizing more than four solo massage  
17 practitioners to operate out of the same place of business if the Director finds good cause  
18 exists and the operation of the establishment will not have a negative impact on the  
19 neighborhood.

20          (f) If an application for a permit authorized under this Section is denied, within 30 days  
21 of the date of receipt of the notice of denial, the applicant may appeal the decision by notifying  
22 the Director in writing. The notice shall set forth in detail the ground or grounds for the appeal.  
23 Within 30 days of receipt of the notice of appeal, the Director shall conduct a hearing to  
24 consider the appeal. At least 10 days prior to the hearing, the Director shall notify the  
25 applicant of the time and place of the hearing. The Director shall oversee the hearing, provide

1 the applicant an opportunity to speak at the hearing, and issue a ruling within 30 days of its  
2 conclusion. The Director's ruling shall be final.

3 **~~SEC. 1914. OPERATING REQUIREMENTS FOR MASSAGE ESTABLISHMENT.~~**

4 ~~(a) Every portion of a massage establishment, including appliances and apparatus, shall be~~  
5 ~~kept clean and operated in a sanitary condition.~~

6 ~~(b) A room, enclosure, or designated area, which is separate from the toilet, massage room,~~  
7 ~~steam room, or other common areas shared by the patrons shall be made available for each employee.~~  
8 ~~Individual lockers within this room shall be made available to each employee. Doors to dressing~~  
9 ~~rooms shall open inward and be self closing.~~

10 ~~(c) Every massage establishment shall provide clean laundered sheets and towels and shall~~  
11 ~~launder them after each use and store them in a sanitary manner. No towels or sheets shall be~~  
12 ~~laundered or dried in any massage establishment unless such massage establishment is provided with~~  
13 ~~laundry facilities for such laundering and drying. The massage establishment shall provide~~  
14 ~~appropriately labeled receptacles for the storage of soiled linens and paper towels. The massage~~  
15 ~~establishment shall appropriately bag and dispose of soiled refuse.~~

16 ~~(d) Every massage establishment shall thoroughly clean its wet and dry heat rooms, shower~~  
17 ~~compartments, and toilet rooms each business day. Bathtubs shall be thoroughly cleaned and sanitized~~  
18 ~~after each use.~~

19 ~~(e) Any room in which a massage establishment provides massage services shall not be used~~  
20 ~~for residential sleeping purposes; provided, however, that the Director may allow such room to be used~~  
21 ~~for residential or sleeping purposes if the Director finds that the health and safety of the patrons of the~~  
22 ~~massage establishment will not be jeopardized.~~

23 **SEC. 1915-29.15. EMPLOYMENT OF MASSAGE PRACTITIONERS.**

24 It shall be the responsibility of every ~~permittee for~~ operator of a massage ~~establishment~~  
25 business or outcall massage service, or the employer of any individual purporting to act as a

1 massage practitioner, to ensure that such individual is certified as a massage practitioner or  
2 therapist by the State of California CAMTC pursuant to the California Business and Professions  
3 Code or has obtained a permit pursuant to this Article.

4 **SEC. ~~1916-29.16~~. REGISTER OF EMPLOYEES.**

5 The operator of a massage establishment, solo practitioner massage establishment, or  
6 outcall massage service must maintain a register of all individuals employed as massage  
7 practitioners and their ~~State of California~~ CAMTC certificate or Department permit numbers.  
8 Such register shall be available for inspection by the Department of Public Health at all times  
9 during regular business hours.

10 **SEC. ~~1917-29.17~~. EMPLOYMENT OF PERSONS UNDER THE AGE OF 18**  
11 **PROHIBITED.**

12 It shall be unlawful for any permittee to employ any individual who is not at least 18  
13 years of age.

14 **SEC. ~~1918-29.18~~. DISPLAY OF PERMIT; HOURS OF OPERATION.**

15 (a) Every permit to operate a massage establishment or solo practitioner massage  
16 establishment shall be displayed in a conspicuous place within the establishment so that the  
17 permit may be readily seen by individuals entering the premises. Every permit to operate an  
18 outcall massage service must be made available for inspection by the Department of Public  
19 Health at all times while providing massage services.

20 (b) No massage establishment, solo practitioner massage establishment, or outcall  
21 massage service shall operate or provide massage services during the hours between 10:00  
22 p.m. and 7:00 a.m.

23 **SEC. ~~1919-29.19~~. INSPECTION.**

24 (a) Any member of the Department of Public Health may make an inspection of any  
25 massage establishment or solo practitioner massage establishment in the City for the purpose



1 of determining that the establishment is in compliance with the provisions of state law or this  
2 Article or for the purpose of providing health and safety information to employees of the  
3 establishment. The Director shall adopt regulations under Section ~~1926~~ 29.25 governing the  
4 use of double doors or other structural devices that interfere with reasonable inspections and  
5 do not have legitimate safety or security purposes.

6 (b) Nothing in this Section shall limit or restrict the authority of a police officer to enter  
7 premises licensed under this Article (1) pursuant to a search warrant signed by a magistrate  
8 and issued upon a showing of probable cause to believe that contraband is present or that a  
9 crime has been committed or attempted, (2) without a warrant in the case of an emergency or  
10 other exigent circumstances, or (3) as part of any other lawful entry in connection with a  
11 criminal investigation or enforcement action.

12 **SEC. ~~1920~~ 29.20. MESSAGE ESTABLISHMENT, SOLO PRACTITIONER MESSAGE**  
13 **ESTABLISHMENT, OR OUTCALL MESSAGE SERVICE LICENSE FEE.**

14 (a) Every person, ~~unless certified as a massage practitioner or therapist by the State of~~  
15 ~~California pursuant to the California Business and Professions Code,~~ holding a massage  
16 establishment, solo practitioner massage establishment, or outcall massage service permit  
17 ~~issued by the Department~~ shall pay to the Tax Collector an annual license fee, as set forth in  
18 Section ~~1927~~ 29.26; provided, however, that the annual license fee shall be \$10 for any person  
19 holding a massage establishment permit who is over 60 years old and does not employ others  
20 and whose gross receipts from the massage business operated under the authority of said  
21 permit for the previous year were less than \$1,000.

22 (b) An advanced massage practitioner holding a solo practitioner massage  
23 establishment permit shall not be required to pay any additional annual license fee for an  
24 outcall massage service permit.

1           **SEC. ~~1921-29.21~~. REVOCATION OF MASSAGE ESTABLISHMENT, SOLO**  
2           **PRACTITIONER MASSAGE ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE**  
3           **PERMIT FOR PRACTITIONERS NOT CERTIFIED BY THE STATE CAMTC.**

4           (a) The Director may revoke or suspend any massage establishment, solo practitioner  
5           massage establishment, or outcall massage service permit *issued to massage establishments*  
6           *where all of the practitioners are not certified as a massage practitioner or therapist by the State of*  
7           *California CAMTC pursuant to the California Business and Professions Code*, after a hearing, if the  
8           Director finds:

9                     (1) The permittee has violated any of the provisions of this Article; or

10                    (2) The permittee has refused to permit any duly authorized City health  
11           inspector to inspect the premises or the operations therein; or

12                    (3) The permittee has engaged in any conduct in connection with the operation  
13           of the business that violates any state or local laws, or, in the case of a massage  
14           establishment or outcall massage service permit, any employee of the permittee has engaged  
15           in any conduct that violates any state or local laws at permittee's place of business, and the  
16           permittee had or should have had actual or constructive knowledge by due diligence of the  
17           illegal conduct; or

18                    (4) In the case of a solo practitioner massage permit, the permittee no longer  
19           holds a current, valid advanced massage practitioner permit issued by the Director; or

20                    (5) The Director determines by clear and convincing evidence that such  
21           business is being managed, conducted, or maintained without regard for public health or the  
22           health of patrons, customers, or employees, or without due regard to proper sanitation and  
23           hygiene; or

24                    (6) The permittee has violated a rule or regulation adopted by the Director  
25           pursuant to Section ~~1926-29.25~~.

1 (b) Before any hearing is conducted under this Section, the Director shall provide the  
2 permittee at least 20 days' written notice. The notice shall include the time, place, and  
3 grounds for the hearing. If requested by permittee, the Director shall make available all  
4 documentary evidence against permittee no later than 15 days prior to the hearing. At the  
5 hearing, the permittee shall be provided an opportunity to refute all evidence against him or  
6 her. The Director shall oversee the hearing and issue a ruling within 20 days of its conclusion.  
7 The Director's ruling shall be final.

8 (c) The Director may suspend summarily any massage establishment, solo practitioner  
9 massage establishment, or outcall massage service permit issued under this Article pending a  
10 noticed hearing on revocation or suspension when in the opinion of the Director the public  
11 health or safety requires such summary suspension. Any affected permittee shall be given  
12 notice of such summary suspension in writing delivered to said permittee in person or by  
13 registered letter.

14 **SEC. ~~1922~~ 29.22. HEARINGS.**

15 The Director may fix a time and place for a hearing on any application for a permit  
16 under this Article, which shall not be held more than 45 days after the receipt of the completed  
17 application, or, in the case of a permit to operate a massage establishment or solo massage  
18 practitioner establishment, more than 30 days after receiving the findings required under  
19 Section ~~1912~~ 29.13 of this Article.

20 **SEC. ~~1923~~ 29.23. TRANSFER OF PERMIT.**

21 No permit issued under this Article shall be transferable.

22 **~~SEC. 1924. EXISTING PERMITS.~~**

23 ~~(a) All persons who possess outstanding massage establishment, outcall massage service, or~~  
24 ~~masseur or masseuse permits on the effective date of this ordinance must surrender and exchange any~~  
25 ~~such permits for new permits within 90 days of the effective date of this ordinance. Any such surrender~~

1 ~~and exchange shall be without fee to the permittee. From and after the 91st day after the effective date~~  
2 ~~of this ordinance, all permits not surrendered and exchanged for new permits shall be void and~~  
3 ~~continuance of operation under any such void permits shall be a violation of this Article. However,~~  
4 ~~until issuance of the new permit, all existing permits are subject to the rules and regulations in effect at~~  
5 ~~the time of the issuance of the permits.~~

6 (1) ~~A person who possesses an outstanding masseur or masseuse permit on the effective date of~~  
7 ~~this ordinance may exchange that permit for a general massage practitioner permit. He or she may~~  
8 ~~seek an advanced massage practitioner permit upon submitting documentation for the additional 100~~  
9 ~~hours of instruction required under Section 1902(c).~~

10 (2) ~~A person who possesses an outstanding massage establishment permit on the effective date~~  
11 ~~of this ordinance may exchange that permit for a massage establishment permit under this Article. Only~~  
12 ~~a person who has obtained an advanced massage practitioner permit may obtain a solo practitioner~~  
13 ~~massage establishment permit.~~

14 (b) ~~Any person practicing massage without a permit on the effective date of this ordinance, or~~  
15 ~~who has done so prior to that date, shall be eligible to receive a general or advanced massage~~  
16 ~~practitioner permit upon satisfying the requirements of Sections 1902 and 1903, or a massage~~  
17 ~~establishment, solo practitioner massage establishment, or outcall massage service permit upon~~  
18 ~~satisfying the requirements of Sections 1909 and 1913. Such applicants shall not be disadvantaged or~~  
19 ~~penalized in the permitting process for having practiced massage without a permit prior to the effective~~  
20 ~~date of this ordinance.~~

21 **SEC. ~~1925-29.24.~~ BUSINESS TAX AND ZONING INFORMATION, RESOURCES FOR**  
22 **MESSAGE PRACTITIONERS.**

23 (a) Upon issuing or renewing any registration or permit issued under this Article, the  
24 Director and the Tax Collector shall also provide the permit-holder with general information,  
25 including appropriate referrals to other City departments, regarding (1) the need and

1 procedure for registering a business with the Tax Collector, and, (2) possible zoning  
2 restrictions on the operation of a massage practice.

3 (b) The Director shall provide all persons receiving a massage practitioner permit with  
4 educational materials regarding their rights and informing them of available resources such as  
5 health services and victim assistance, as well as emergency numbers and hotlines to call for  
6 information and assistance.

7 **SEC. ~~1926-29.25~~. RULES AND REGULATIONS; COMPLAINT LINE.**

8 (a) The Director, after a noticed public hearing, may adopt rules and regulations to  
9 carry out the provisions of this Article. Such rules and regulations shall take effect *no sooner*  
10 *than* 15 days after the ~~meeting~~ *public hearing*. Violation of any such rule or regulation may be  
11 grounds for administrative action against the permittee, including suspension or revocation of  
12 the permit as provided in Sections ~~1907-29.8~~ and ~~1921-29.21~~ or an administrative fine as  
13 provided in Section ~~1928-29.27~~, but the Director shall whenever possible give the permittee a  
14 reasonable opportunity to cure the violation before seeking penalties.

15 (b) The Director shall maintain a phone line for inquiries and complaints regarding  
16 massage businesses and practitioners.

17 **SEC. ~~1927-29.26~~. FEES.**

18 (a) The application fee for a massage establishment, as provided in Section ~~1909-29.11~~,  
19 shall be ~~\$394658~~. The annual license fee for a massage establishment, as provided in Section  
20 ~~1920-29.20~~, shall be ~~\$6941,173~~. The Fee shall be due annually on March 31 of each year,  
21 pursuant to Section 76.1, Article 2 of the San Francisco Business and Tax Regulations Code.

22 (b) The application fee for a solo practitioner massage establishment, as provided in  
23 Section ~~1909-29.11~~, shall be ~~\$394480~~. The annual license fee for a solo practitioner massage  
24 establishment, and for massage establishments where all practitioners are certified by the  
25 CAMTC, as provided in Section ~~1920-29.20~~, shall be ~~\$464579~~. The Fee shall be due annually

1 on March 31 of each year, pursuant to Section 76.1, Article 2 of the San Francisco Business  
2 and Tax Regulations Code

3 (c) The application fee for an outcall massage services permit, as provided in  
4 Section ~~1909-29.11~~, shall be \$~~278480~~. The annual license fee for an outcall massage service,  
5 as provided in Section ~~192029.20~~, shall be \$~~231579~~. The Fee shall be due annually on March  
6 31 of each year, pursuant to Section 76.1, Article 2 of the San Francisco Business and Tax  
7 Regulations Code.

8 (d) An advanced massage practitioner holding a solo practitioner massage  
9 establishment permit shall not be required to pay any additional permit or annual license fee  
10 for an outcall massage service permit.

11 (e) Beginning with fiscal year 2008-2009, fees set forth in this Article may be adjusted  
12 each year, without further action by the Board of Supervisors, as set forth in this Section.

13 Not later than April 1, the Director shall report to the Controller the revenues generated  
14 by the fees for the prior fiscal year and the prior fiscal year's costs of operation, as well as any  
15 other information that the Controller determines appropriate to the performance of the duties  
16 set forth in this Section.

17 Not later than May 15, the Controller shall determine whether the current fees have  
18 produced or are projected to produce revenues sufficient to support the costs of providing the  
19 services for which the fees are assessed and that the fees will not produce revenue which is  
20 significantly more than the costs of providing the services for which the fees are assessed.

21 The Controller shall, if necessary, adjust the fees upward or downward for the  
22 upcoming fiscal year as appropriate to ensure that the program recovers the costs of  
23 operation without producing revenue which is significantly more than such costs. The  
24 adjusted rates shall become operative on July 1.

1           **SEC. ~~1928-29.27~~. VIOLATIONS AND ADMINISTRATIVE PENALTIES.**

2           (a) Any person who violates any provision of this Article or any rule or regulation  
3 adopted pursuant to Section ~~192629.25~~ may, after being provided notice and an opportunity to  
4 be heard, be subject to an administrative fine not to exceed \$1,000 for the first violation of any  
5 provision of this Article or any rule or regulation in a 24 month period, \$2,500 for the second  
6 violation of any provision of this Article or any rule or regulation in a 24-month period, and  
7 \$5,000 for the third and subsequent violations of any provision of this Article or any rule or  
8 regulation in a 24-month period; provided, however, that the schedule of administrative fines  
9 for a massage practitioner shall be as follows: not to exceed \$250 for the first violation of any  
10 provision of this Article or a rule or regulation in a 24-month period, \$500 for the second  
11 violation of any provision of this Article or any rule or regulation in a 24-month period, and  
12 \$1,000 for the third and subsequent violations of any provision of this Article or any rule or  
13 regulation in a 24-month period.

14           (b) Any permittee who knowingly employs a massage practitioner who is not in  
15 possession of a valid permit or who allows such a massage practitioner to perform, operate,  
16 or practice in the permittee's place of business may, after being provided notice and an  
17 opportunity to be heard, be subject to an administrative fine not to exceed \$1,000 for the first  
18 violation in a 24-month period, \$2,500 for the second violation in a 24-month period, and  
19 \$5,000 for the third and subsequent violations in a 24-month period.

20           (c) In determining the amount of the administrative fine, the hearing officer shall  
21 consider any relevant circumstance presented by any of the parties, including but not limited  
22 to the nature and seriousness of the violation, the number of violations, the persistence of the  
23 violation, the length of time over which the violation occurred, the willfulness of the violation,  
24 and the impacts of the violation on the community.

1 (d) Administrative fines collected under this Section shall be used to support the  
2 Department of Public Health and its Health Code enforcement functions.

3 (e) Nothing in this Section shall preclude the prosecution of anyone under Health Code  
4 Section ~~1928.229.29~~, the laws of the State of California or the laws of the United States of  
5 America.

6 **SEC. ~~1928.129.28~~. COST RECOVERY.**

7 Any person who is assessed an administrative fine or whose permit is suspended or  
8 revoked under this Article, regardless of whether any fine, suspension or revocation is held in  
9 abeyance, shall be liable to the City for its costs incurred in enforcing this Article including but  
10 not limited to the costs of inspection, investigation, administration, hearing officer,  
11 administrative proceedings, court proceedings, monitoring and attorneys' fees. Within ten  
12 business days of the termination of the administrative hearing or other proceeding, the  
13 Department of Public Health shall calculate the amount of costs.

14 **SEC. ~~1928.229.29~~. VIOLATIONS AND CRIMINAL PENALTIES.**

15 (a) Any permittee, as defined in Section ~~1900(i)29.1~~, of a massage establishment or  
16 outcall massage service or any employer of a massage practitioner who shall violates Health  
17 Code Section ~~190129.2~~ which requires a permit to engage in the practice of massage, Health  
18 Code Section ~~190529.6~~ which requires presentation of an identification card to any City health  
19 inspector, Health Code Section ~~190829.10~~ which requires *practitioners not certified by the State*  
20 ~~of California~~ CAMTC pursuant to the California Business and Professions Code to obtain a permit to  
21 operate a massage establishment, solo practitioner massage establishment, or outcall  
22 massage service, Health Code Section ~~1914(e)29.12(g)~~ which prohibits the use of any room in  
23 which massage services are provided to be used as a sleeping room, Health Code Section  
24 ~~1911-191529.15~~ which requires every permit holder or employer to ensure that a massage  
25 practitioner, who is not certified by the State of California CAMTC, has obtained a permit, Health



1 Code Section ~~191629.16~~ which requires a register of practitioners to be available for  
2 inspection, Health Code Section ~~191729.17~~ which prohibits the employment of any individual  
3 under the age of 18, Health Code Section ~~191829.18~~, which requires display of a permit and  
4 prohibits operation between the hours of 10 p.m. and 7 a.m., or any rule or regulation adopted  
5 pursuant to Section ~~192629.25~~, shall be guilty of a misdemeanor and upon conviction shall be  
6 punished by a fine not to exceed \$1,000 or by imprisonment in the County Jail not to exceed  
7 six months, or by both. A person convicted of violating this Section shall be deemed guilty of  
8 a separate offense for every day such violation shall continue.

9 (b) Nothing in this Section shall preclude the prosecution of anyone under the laws of  
10 the State of California or of the United States of America.

11 **SEC. ~~192929.30~~. COOPERATIVE EFFORTS WITH LAW ENFORCEMENT.**

12 The Director of Public Health shall work with the Chief of Police on issues of common  
13 concern affecting the massage industry, such as protections against violence in massage  
14 establishments, crimes against massage practitioners, forced labor, or trafficking.

15 During the six-month period between adoption of this Article and its effective date, the  
16 Director of Public Health shall work with the Chief of Police to develop procedures to verify  
17 that permit applicants do not have prior criminal convictions that would disqualify the  
18 applicants from receiving a permit under this Article.

19 **SEC. ~~193029.31~~. DISCLAIMER.**

20 In regulating massage establishments and massage services as provided in this  
21 Article, the City is assuming an undertaking only to promote the general welfare. It is not  
22 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it  
23 is liable in money damages to any person who claims that such breach proximately caused  
24 injury.  
25

1           **SEC. ~~193129.32~~. SEVERABILITY.**

2           If any of the provisions of this Article or the application thereof to any person or  
3           circumstance is held invalid, the remainder of this Article, including the application of such part  
4           or provisions to persons or circumstances other than those to which it is held invalid, shall not  
5           be affected thereby and shall continue in full force and effect. To this end, the provisions of  
6           this Article are severable.

7  
8           Section 3. Effective Date. This ordinance shall become effective 30 days from the  
9           date of passage.

10  
11           Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to  
12           amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,  
13           punctuation, charts, diagrams, or any other constituent part of the Health Code that are  
14           explicitly shown in this legislation as additions, deletions, Board amendment additions, and  
15           Board amendment deletions in accordance with the "Note" that appears under the official title  
16           of the legislation.

17  
18           APPROVED AS TO FORM:  
19           DENNIS J. HERRERA, City Attorney

20           By:   
21           VIRGINIA DARIO ELIZONDO  
22           Deputy City Attorney

23  
24  
25  
n:\vegana\as2013\1300227\00877369.doc

**REVISED LEGISLATIVE DIGEST**

(10/3/2013, Amended in Committee)

[Health Code - Massage Practitioners]

**Ordinance amending the Health Code to exempt massage practitioners who are certified by the California Massage Therapy Council (CAMTC) and massage establishments that employ only CAMTC-certified massage practitioners from requirements for obtaining a permit from the San Francisco Health Department; require massage establishments that employ only CAMTC-certified massage practitioners to pay an annual license fee; ,increasing the licensing fees for all establishments and practitioners; and making environmental findings.**

Existing Law

All individuals engaged in the practice of massage must obtain a permit from the San Francisco Health Department ("Department"). The Department provides an identification card to all permitted practitioners, which must be presented to any City health inspector upon request at all times during the regular business hours of any massage establishment or solo practitioner massage establishment. The Director of Health may suspend or revoke a permit after a public hearing. Massage establishments and solo practitioners must comply with public health and safety facility and operating requirements. Every person holding a massage establishment, solo practitioner massage establishment, or outcall massage service permit issued by the Department pays an annual license fee to the Tax Collector.

Amendments to Current Law

An individual who is certified as a massage practitioner by the State of California pursuant to the California Business and Professions Code is not required to obtain a permit from the Department. However, any practitioner who is not certified by the State must still obtain a permit from the Department.

Massage establishments that employ only massage practitioners who are certified by the state must provide copies of those certificates to the Health Department for all massage practitioners employed by the establishment, and must update this information annually. The operator of a massage establishment, solo practitioner massage establishment, or outcall massage service must maintain a register of all individuals employed as massage practitioners and their State of California certificate or Department permit numbers. Such register shall be available for inspection by the Department at all times during regular business hours.

All massage establishments, whether state-certified or not, must comply with reasonable health and safety operating requirements. Every person certified as a massage practitioner or therapist or holding a massage establishment, solo practitioner massage establishment, or outcall massage service permit issued by the Department shall pay an annual license fee to the Tax Collector. These fees have been increased to reflect current costs.

#### Committee Amendments

1. Clarify that massage practitioners are certified by the California Massage Therapy Council (CAMTC), not the state of California.
2. For massage practitioners not certified by the CAMTC, require an applicant for a message establishment permit to provide a copy of the lease or rental agreement for the site.
3. Require massage establishments where all practitioners are certified by the CAMTC to pay the lowest annual license fee assessed other similar businesses.

#### Background

State law was amended in 2011 to exempt massage practitioners and massage therapists who are certified by the California Massage Therapy Council, and massage businesses that employ only state certified practitioners, from local permitting and other regulatory requirements except reasonable health and safety standards.

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

May 14, 2013

File No. 130400

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

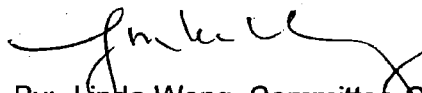
On May 2, 2013, the Department of Public Health submitted to our office the following proposed legislation:

**File No. 130400**

Ordinance amending the Health Code to exempt massage practitioners who are certified by the State of California and massage establishments that employ only state-certified massage practitioners from requirements for obtaining a permit from the Health Department; and making environmental findings.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

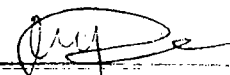
  
By: Linda Wong, Committee Clerk  
Rules Committee

Attachment

c: Monica Pereira, Environmental Planning  
Joy Navarrete, Environmental Planning

2013.1403E

*Non-physical  
exemption per  
CEQA Section  
15060(c)(2)*

 10/01/13  
Approved Planning Dept. Monica Cristina Pereira,  
Environmental Planner



SMALL BUSINESS COMMISSION  
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO  
EDWIN M. LEE, MAYOR

July 17, 2013

Ms. Angela Calvillo, Clerk of the Board  
Board of Supervisors  
City Hall room 244  
1 Carlton B. Goodlett Place  
San Francisco, CA 94102-4694

**File No. 130400 [Health Code - Massage Practitioners]**

Small Business Commission Recommendation: **Approval**

Dear Ms. Calvillo:

On June 10, 2013 the Small Business Commission (SBC) voted 5-0 to recommend approval of BOS File No. 130400.

The Small Business Commission supports the San Francisco Department of Public Health amending Article 29 of the Health Code to bring the San Francisco local ordinance into compliance with State Law. State Law exempts state certified massage practitioners and massage establishments that employ only state certified massage practitioners from obtaining a local permit and this ordinance formally recognizes this provision under state law.

The SBC recognizes that there are differences in regulatory requirements between the state and San Francisco. The Commission, as a future policy direction, requests that the Department of Public Health work with the San Francisco Police Department to consider bringing local permitting requirements, including length of education and training, in line with State requirements.

Sincerely,

Regina Dick-Endrizzi  
Director, Office of Small Business

Cc: Jason Elliott, Mayor's Office  
Richard Lee, Department of Public Health



Edwin M. Lee  
Mayor

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

Barbara A. Garcia, MPA  
Director of Health

2013 MAY -2 PM 2: 59

*[Handwritten signature]*

May 2, 2013

Angela Calvillo, Clerk of the Board  
Board of Supervisors  
1 Dr. Carlton B Goodlett Place, Room 244  
San Francisco, CA 94102-4689

Dear Ms. Calvillo:

Attached please find an original and four copies of three proposed ordinances for Board of Supervisors approval, which are intended to conform the San Francisco Health Code and Business and Tax Regulation Code to California Business and Professions Code and California Health and Safety Code.

The following is a list of accompanying documents (five sets):

- Ordinance amending the Health Code, to exempt massage practitioners who are certified by the State of California and massage establishments that employ only state-certified massage practitioners from requirements for obtaining a permit from the San Francisco Health Department; and making environmental findings.
- Legislative Digest for Ordinance amending the Health Code, to exempt massage practitioners who are certified by the State of California and massage establishments that employ only state-certified massage practitioners from requirements for obtaining a permit from the San Francisco Health Department; and making environmental findings.
- Ordinance amending the Health Code to require electronic applications for registration of hazardous materials and for underground storage tanks to be filed through the California Environmental Reporting System, to eliminate the requirement that registration of hazardous materials plans to include a program for reduction of hazardous materials, and to provide for fee adjustment; and making environmental findings.
- Legislative Digest for Ordinance amending the Health Code to require electronic applications for registration of hazardous materials and for underground storage tanks to be filed through the California Environmental Reporting System, to eliminate the requirement that registration of hazardous materials plans to include a program for reduction of hazardous materials, and to provide for fee adjustment; and making environmental findings
- Ordinance amending the Health Code by repealing miscellaneous sections relating to tattooing and adding Article 40 to require body art practitioners to register with the San Francisco Department of Public Health (DPH) and annually renew registration, and to require permanent and temporary body art facilities to obtain and annually renew permits with DPH; amending the San Francisco Business and Tax

130400

May 2, 2013

Page 2

Regulations Code by adding fees relating to body art permits and licenses; and making environmental findings.

- Legislative Digest for Ordinance amending the Health Code by repealing miscellaneous sections relating to tattooing and adding Article 40 to require body art practitioners to register with the San Francisco Department of Public Health (DPH) and annually renew registration, and to require permanent and temporary body art facilities to obtain and annually renew permits with DPH; amending the San Francisco Business and Tax Regulations Code by adding fees relating to body art permits and licenses; and making environmental findings.

There is no requirement for a special timeline for these items.

The following persons may be contacted regarding this matter: Richard Lee, DPH Director of Environmental Health Regulatory Program at 252-3992 or Jim Soos, DPH Assistant Director of Policy and Planning at 554-2633.

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara A. Garcia". The signature is stylized and cursive.

Barbara A. Garcia, MPA  
Director of Health



President, District 3  
BOARD of SUPERVISORS



*The normally BDS-11, Aides  
Rules + GAO  
Clerks* Print *COB  
Leg Dep*  
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1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
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TDD/TTY No. 544-5227

**DAVID CHIU**  
邱信福  
市參事會主席

**PRESIDENTIAL ACTION**

Date: October 4, 2013  
To: Angela Calvillo, Clerk of the Board of Supervisors

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2013 OCT -4 PM 3:23  
H

Madam Clerk,

Pursuant to Board Rules, I am hereby:

- Waiving 30-Day Rule (Board Rule No. 3.23)  
File No. \_\_\_\_\_
- Transferring (Board Rule No. 3.3)  
File No. 130400  
From: Rules Committee  
To: Government Audit & Oversight Committee
- Assigning Temporary Committee Appointment (Board Rule No. 3.1)  
Supervisor \_\_\_\_\_  
Replacing Supervisor \_\_\_\_\_  
For: \_\_\_\_\_ Meeting  
(Date) (Committee)

*David Chiu*

David Chiu, President  
Board of Supervisors