

1 [Health Code - Massage Practitioner and Business Permits, Associated Fees]

2
3 **Ordinance amending the Health Code to comprehensively revise regulation of massage**
4 **practitioners, massage establishments, massage outcall services, and sole practitioner**
5 **massage establishments by, among other things: 1) eliminating the exemption for**
6 **massage businesses that employ solely massage practitioners certified by the**
7 **California Massage Therapy Council from the permitting and regulatory authority of the**
8 **Department of Public Health; 2) increasing the number of instructional hours required**
9 **for massage practitioner permits; 3) denying massage business permits to applicants**
10 **who have been convicted of criminal acts related to human trafficking; 4) aligning**
11 **massage practitioner attire requirements with State law; 5) incorporating State human**
12 **trafficking information posting requirements into local law for enforcement purposes;**
13 **6) revising the timing and criteria for granting, denying, suspending, and revoking**
14 **massage practitioner permits, massage establishment permits, sole practitioner**
15 **massage establishment permits, and outcall massage service permits; 7) specifying**
16 **massage practitioner permit application and annual license fees; 8) updating the**
17 **application and annual license fee amounts for massage establishments, outcall**
18 **massage services, and sole practitioner massage establishments to reflect the**
19 **currently authorized amounts; and 9) grouping related requirements and making other**
20 **changes to enhance clarity and promote compliance.**

21 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
22 **Additions to Codes** are in *single-underline italics Times New Roman font*.
23 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
24 **Board amendment additions** are in double-underlined Arial font.
25 **Board amendment deletions** are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code
subsections or parts of tables.

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

2 Section 1. Article 29 of the Health Code is hereby amended by renumbering and
3 revising, with the new section number in parentheses, Sections 29.1 (29.5), 29.2 (29.10), 29.3
4 (29.11), 29.4 (29.12), 29.5 (29.13), 29.6 (29.15), 29.7 (29.16), 29.8 (29.18), 29.10 (29.25),
5 29.11 (29.26), 29.12 (29.27 and 29.32), 29.13 (29.28), 29.14 (29.29), 29.15 (29.32), 29.16
6 (29.32), 29.17 (29.32), 29.18 (29.32), 29.19 (29.33), 29.20 (29.31), 29.21 (29.34), 29.22
7 (29.12 and 29.29), 29.23 (29.4), 29.24 (29.14 and 29.30), 29.25 (29.2 and 29.3), 29.26
8 (29.40-29.42), 29.27 (29.45), 29.28 (29.46), 29.29 (29.47), 29.30 (29.48), 29.31 (29.49), and
9 29.32 (29.50); deleting Section 29.9; and adding new Sections 29.1, 29.40, and 29.51, to read
10 as follows:

11 **ARTICLE 29**

12 **LICENSING AND REGULATION OF**

13 **MESSAGE PRACTITIONERS AND MESSAGE BUSINESSES**

14
15 **GENERAL PROVISIONS**

16 **SEC. 29.1 FINDINGS AND PURPOSE.**

17 **SEC. 29.2. ADMINISTRATION AND ENFORCEMENT.**

18 **SEC. 29.3. COMPLAINT LINE.**

19 **SEC. 29.4. TRANSFER OF PERMIT.**

20 **SEC. 29.5. DEFINITIONS.**

21
22 **MESSAGE PRACTITIONER PERMITS**

23 **SEC. 29.10. PERMIT REQUIRED FOR MESSAGE PRACTITIONER; EXEMPTIONS.**

24 **SEC. 29.11. APPLICATION FOR MESSAGE PRACTITIONER PERMIT.**

25 **SEC. 29.12. ISSUANCE OF MESSAGE PRACTITIONER PERMIT.**

1 (c) The 2008 law, as amended, also served to exempt massage practitioners and massage
2 therapists who are certified by the CAMTC and massage businesses that employ only CAMTC-certified
3 practitioners from local permitting and other regulatory requirements except for reasonable health and
4 safety standards. This has had a preemptive effect on the ability of cities and counties to effectively
5 regulate massage businesses.

6 (d) The lack of local regulation has led to a marked increase in the number of massage
7 businesses that have opened in San Francisco, especially in some areas of the City that now exhibit a
8 significant concentration of such establishments.

9 (e) The lack of regulation has also allowed many illicit massage businesses to open,
10 sometimes using deceptive euphemisms like “relaxation spa” or “health club.” These illicit businesses
11 are generally outlets of the sex trade, and some engage in human trafficking and other human rights
12 violations. Such massage businesses are detrimental to the health and safety of the community and
13 adversely impact the local economy by driving legitimate business away, potentially affecting the
14 vitality of neighborhoods and the provision of adequate services for residents and visitors alike.

15 (f) In 2014, the Legislature passed, and Governor Brown signed, Assembly Bill No. 1147
16 (“AB 1147”), which authorizes local governments to use their regulatory and land use authority to
17 ensure the public’s safety, reduce human trafficking, and enforce local standards for the operation of
18 the business of massage therapy in the best interests of the affected community.

19 (g) Under AB 1147, cities and counties regained broad authority over the ability to regulate
20 businesses that provide massage therapy, and CAMTC retained authority over regulating those
21 individuals who hold a CAMTC certificate to practice massage therapy.

22 (h) Through this Article 29, the City seeks to exercise its authority under AB 1147 to
23 regulate all massage businesses, including those that employ only CAMTC-certified practitioners, and
24 to regulate massage practitioners who do not hold a CAMTC certificate.

25 **SEC. 29.2. ADMINISTRATION AND ENFORCEMENT.**

1 *This Article 29 shall be administered and enforced by the Department of Public Health. The*
2 *Director may adopt rules and regulations to carry out the provisions of this Article.*

3 **SEC. 29.3. COMPLAINT LINE.**

4 *The Director shall maintain a phone line for inquiries and complaints regarding massage*
5 *businesses and practitioners.*

6 **SEC. 29.4. TRANSFER OF PERMIT.**

7 *No permit issued under this Article 29 shall be transferable under any circumstances, including*
8 *but not limited to the sale of the massage business.*

9 **SEC. 29.15. DEFINITIONS.**

10 For the purposes of this Article 29:

11 *“Approved School” or “Approved Massage School” means a school that provides instruction*
12 *and training in massage and meets the requirements of California Business and Professions Code*
13 *Section 4601(a).*

14 "CAMTC" means the California Massage Therapy Council as ~~defined~~established in ~~the~~
15 California Business and Professions Code ~~§ 4600(e)~~ Section 4602, or any successor agency.

16 *“CAMTC Certified Practitioner” means an individual who administers massage for*
17 *compensation and holds a valid and active certificate to practice massage issued by CAMTC pursuant*
18 *to California Business and Professions Code Sections 4604 or 4604.2.*

19 "City" means the City and County of San Francisco.

20 *“Compensation” means a payment, loan, advance, donation, contribution, deposit, forgiveness*
21 *of debt, or gift of money or anything of value.*

22 "Convicted" means having pled guilty or having received a verdict of guilty, including a
23 verdict following a plea of nolo contendere, to a crime.

24 *“Department” means Department of Public Health.*

1 "Director" means the Director of the Department of Public Health or any individual
2 designated by the Director to act on his or her behalf.

3 "Massage" means any method of pressure on or friction against, or stroking, kneading,
4 rubbing, tapping, pounding, vibrating, or stimulating ~~of~~ the external soft pads of the body with
5 the hands or with the aid of any ~~mechanical electrical~~ apparatus or appliances, ~~with or without~~
6 ~~such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, lotions, ointments, or~~
7 ~~other similar preparations.~~

8 "Massage Business" means Massage Establishment, Outcall Massage Service, and Sole
9 Practitioner Massage Establishment, collectively.

10 "Massage ~~e~~Establishment" means a fixed place of business where more than one
11 ~~person individual administers engages in or carries on, or permits to be engaged in or carried on, the~~
12 ~~practice of m~~Massage for Compensation, excluding those locations where Massage is provided only
13 on an outcall basis.

14 "Massage ~~p~~Practitioner" means any individual ~~who, for any monetary consideration~~
15 ~~whatsoever, engages in the practice of massage who administers Massage for Compensation pursuant~~
16 to a permit issued by the Director under this Article 29. Notwithstanding the previous sentence,

17 ~~"Massage pPractitioner" shall include both general massage practitioners and advanced massage~~
18 ~~practitioners, as provided in Section 29.2 does not include CAMTC Certified Practitioner.~~

19 ~~"Non-profit organization" means any fraternal, charitable, religious, benevolent, or any other~~
20 ~~nonprofit organization having a regular membership association primarily for mutual social, mental,~~
21 ~~political, and civic welfare, to which admission is limited to the members and guests and revenue~~
22 ~~accruing therefrom to be used exclusively for the benevolent purposes of said organization and which~~
23 ~~organization or agency is exempt from taxation, under the Internal Revenue Laws of the United States~~
24 ~~as a bona fide fraternal, charitable, religious, benevolent, or non-profit organization.~~

1 "Outcall ~~m~~Massage ~~s~~Service" means any business other than a not permitted as a
2 ~~m~~Massage ~~e~~Establishment or ~~Sole~~ ~~p~~Practitioner ~~m~~Massage ~~e~~Establishment that provides under
3 the provisions of this Article, wherein the primary function of such business is to engage in or carry on
4 mMassage for Compensation not at a fixed location but at a location designated by the client or
5 customerrather than on its premises.

6 "Owner" means any individual, partnership, firm, association, corporation, or combination of
7 individuals of whatever form or character with an ownership interest in a business that provides
8 Massage services.

9 "Permittee" means the owner, proprietor, manager, or operator of a massage establishment,
10 outeall massage service, or solo practitioner massage establishment.

11 "Person" means any individual, partnership, firm, association, joint stock company,
12 corporation, or combination of individuals of whatever form or character.

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

20 "Sole Practitioner" means a Massage Practitioner permit holder or CAMTC Certified
21 Practitioner who provides Massage for Compensation without any partners, associates, or employees,
22 and absent any business relationship with a Massage Establishment.

23 "Sole ~~p~~Practitioner ~~m~~Massage ~~e~~Establishment" means a fixed place of business where
24 a person holding solely owned by an advanced mMassage pPractitioner permit holder or CAMTC
25 Certified Practitioner, engages in or carries on, or permits to be engaged in or carried on, the practice

1 *of which individual is the only person who provides mMassage for Compensation. The business*
2 *location Said fixed place of business may be shared by two to four advanced mMassage*
3 *p*Practitioners or CAMTC Certified Practitioners in any combination, or two to four advanced
4 *massage practitioners and one or more health or healing arts practitioners, except as otherwise*
5 *provided pursuant to Section 29.2914(e).*

6
7 **MASSAGE PRACTITIONER PERMITS**

8 **SEC. 29.102. PERMIT REQUIRED FOR MASSAGE PRACTITIONER;**
9 **EXEMPTIONS.**

10 (a) Permit Required. It shall be unlawful for any individual *who is not certified as a*
11 *massage practitioner or therapist by the CAMTC pursuant to the California Business and Professions*
12 *Code to engage in the practice to administer mMassage for Compensation without first obtaining a*
13 *Massage Practitioner permit from the Director, unless that individual is exempt from the permit*
14 *requirement under subsection (b).*

15 (b) Exemptions. *The following massage service providers are exempt from the permit*
16 *requirement in subsection (a):*

17 (1) CAMTC Certified Practitioners.

18 (2) Physicians, surgeons, chiropractors, osteopaths, nurses or any physical therapists
19 *who are duly licensed to practice their respective professions in the State of California and persons*
20 *working directly under the supervision of or at the direction of such licensed persons, working at the*
21 *same location as the licensed person, and administering massage services subject to review or*
22 *oversight by the licensed person.*

23 (3) Barbers and cosmetologists who are duly licensed under the laws of the State of
24 *California, while engaging in practices within the scope of their licenses, and limited to the massaging*
25 *of the neck, face, scalp, hands or feet of the clients.*

1 (4) Employees of hospitals, nursing homes, mental health facilities, or any other health
2 facilities duly licensed by the State of California, while acting within the scope of their employment.

3 ~~(b) An individual may receive a permit as either a general massage practitioner or an~~
4 ~~advanced massage practitioner, as provided in Section 29.3. As used in this Article, the term "massage~~
5 ~~practitioner" shall refer to both general massage practitioners and advanced massage practitioners,~~
6 ~~unless otherwise specifically provided in this Article.~~

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

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

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

21 **SEC. 29.113. APPLICATION FOR MASSAGE PRACTITIONER PERMIT, ~~GENERAL~~**
22 **~~AND ADVANCED PRACTITIONERS NOT CERTIFIED BY THE CAMTC.~~**

23 (a) Permit Application. ~~Unless certified as a massage practitioner or therapist by the CAMTC~~
24 ~~pursuant to the California Business and Professions Code, e~~Every applicant for a ~~m~~Massage
25 ~~p~~Practitioner permit shall:

1 (1) ~~File~~ an application with the Director upon a form provided by the Director;

2 (2) Provide a complete set of fingerprints in the manner required by the Director for the
3 purpose of undergoing a criminal background check; and

4 (3) ~~Pay~~ a non-refundable application fee, as set forth in Section 29.2640.

5 (b) Applicant Information. The application ~~form for a massage practitioner permit~~ shall
6 require the applicant to provide set forth, under penalty of perjury, the following information:

7 (1) ~~The applicant's Name and residence address of the applicant;~~

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

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

12 (4) ~~The Applicant's~~ height, weight, and color of hair and eyes;

13 (5) ~~The applicant's work history Business, occupation, or employment of the applicant~~
14 ~~for the five years immediately prior to the date of application; this information shall include, but~~
15 ~~not be limited to, a statement as to whether or not the applicant, in working as a massage practitioner~~
16 ~~or bodywork technician or similar occupation under a permit or license, has had such permit or license~~
17 ~~revoked or suspended, and the reasons therefor; and~~

18 (6) All permits, certificates, or licenses related to the practice of Massage currently
19 or formerly held by the applicant in San Francisco or elsewhere, including any discipline imposed by
20 the issuing authority and a statement whether the applicant is currently the subject of a disciplinary
21 process; and

22 (7) All felony or misdemeanor convictions; and

23 (8) Any additional information as required by the Director.

24 (c) Minimum Educational Requirements. An applicant for a ~~general m~~ Massage
25 ~~p~~ Practitioner permit shall provide, ~~as part of the application, the name and address of the recognized~~

1 ~~school for massage attended, the dates attended, and the original of the diploma or certificate of~~
2 ~~completion awarded the applicant, in a form acceptable to the Director, documentation~~ showing that
3 the applicant has completed not less than ~~500~~100 hours of instruction in Massage and related
4 subjects at an Approved Massage School. ~~An applicant for an advanced massage practitioner permit~~
5 ~~shall provide, as part of the application, the name and address of the recognized school or schools for~~
6 ~~massage attended, the dates attended, and the original of the diploma(s) or certificate(s) of completion~~
7 ~~awarded the applicant showing that the applicant has completed not less than 200 hours of instruction.~~
8 ~~The additional 100 hours of instruction required for the advanced massage practitioner permit may be~~
9 ~~completed at one or more schools. If the applicant already holds a current general massage~~
10 ~~practitioner permit, he or she need only submit documentation for the additional 100 hours of~~
11 ~~instruction necessary for the advanced massage practitioner permit.~~

12 (d) Proficiency Test. The Director shall administer a ~~culturally-sensitive~~ test to all
13 applicants, in ~~each the~~ applicant's own language, to confirm basic proficiency in ~~m~~Massage
14 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 forth in~~
17 ~~the application.~~

18 **SEC. 29.124. ISSUANCE OF MASSAGE PRACTITIONER PERMIT. ~~FOR~~**
19 **~~PRACTITIONERS NOT CERTIFIED BY THE CAMTC.~~**

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

1 **(b) Hearing on Application.** *The Director may, in his or her discretion, hold a hearing on any*
2 *pending application for a Massage Practitioner permit. The Director shall give the applicant at least*
3 *10 days' written notice of the time and place of the hearing.*

4 **(cb) Grounds for Denial.** No ~~m~~Massage ~~p~~Practitioner permit shall be issued if the
5 Director finds:

6 (1) *The applicant is exempt from the permit requirement pursuant to Section 29.10; or*

7 (2) *The applicant has provided materially false information, documents, or*
8 *testimony in support of the application or in any other matter before the Director; or*

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

10 (3) Within five years immediately prior to the date of application, the applicant
11 has had any license, certificate, or permit related to the practice of ~~m~~Massage revoked or, if
12 from another jurisdiction, suspended under circumstances that qualify for revocation under this Article
13 29, or is currently the subject of an unresolved disciplinary process that may result in suspension or
14 revocation; or

15 (4) The applicant has been ~~e~~Convicted of any of the following offenses ~~or~~
16 ~~convicted of an offense outside the State of California that would have constituted any of the following~~
17 ~~offenses if committed within the State of California:~~

18 (A) Any felony involving the use of coercion, ~~or~~ force, orand violence
19 upon another person; or

20 (B) Any misdemeanor sexual battery; or

21 (C) Any offense involving sexual misconduct with children; or

22 (D) Any offense requiring registration pursuant to Section 290 of the
23 California Penal Code or, for Convictions outside California, any offense requiring registration in
24 California under Penal Code Section 290.005; or

1 (5) The applicant has failed to satisfy the education requirements or pass the Massage
2 proficiency test; or

3 (6) The Director concludes that there is good cause to deny the permit in accordance
4 with Section 26 of the Business and Tax Regulations Code.

5 (de) Discretionary Exception for Criminal Convictions. The Director may issue a
6 ~~m~~Massage pPractitioner permit to any individual ~~e~~Convicted of one of the offenses listed in
7 ~~S~~subsection (cb)(4) of this Section if the Director finds that the offense was not violent, the
8 conviction occurred at least five years prior to the date of application, and the applicant has
9 not been ~~e~~Convicted subsequently of ~~one of those a listed~~ offenses.

10 (ea) Right to Director's Hearing. If an application for a ~~m~~Massage pPractitioner permit is
11 denied, and provided that the Director did not hold a hearing on the application as provided in
12 subsection (b) of this Section 29.12, within 30 days of the date of receipt of the notice of denial, the
13 applicant may appeal the ~~decision denial~~ denial within 30 days of receipt of the notice of denial by
14 notifying the Director in writing and explaining ~~The notice shall set forth~~ in detail the ground or
15 grounds for the appeal. ~~Within 30 days of receipt of the notice of appeal, t~~The Director shall
16 conduct a hearing to consider the appeal within 30 days of receiving the notice of appeal and. ~~At~~
17 ~~least 10 days prior to the hearing, the Director~~ shall notify the applicant of the time and place of
18 the hearing at least 10 days in advance of the hearing. The Director shall oversee the hearing,
19 provide the applicant an opportunity to speak at the hearing, and issue a ruling within 30 days
20 of the conclusion of the hearing. ~~its conclusion~~. The Director's ruling shall be the final decision of the
21 Department. If the Director does not rule within 30 days of the conclusion of the hearing, the permit
22 denial shall be deemed sustained.

23 **SEC. 29.135. TEMPORARY AND TRAINEE MASSAGE PRACTITIONER PERMITS,³**
24 **~~TRAINEE PERMIT FOR PRACTITIONERS NOT CERTIFIED BY THE CAMTC.~~**

1 ~~(a) Temporary Permit During Application Period. A practitioner of Massage who holds a~~
2 ~~valid permit, license, or certificate to practice Massage issued by another jurisdiction and who has~~
3 ~~been practicing Massage in that jurisdiction may request a temporary Massage Practitioner permit~~
4 ~~Upon completion and submission of an application for a mMassage pPractitioner permit for a~~
5 ~~practitioner who is not certified as a massage practitioner or therapist by the CAMTC pursuant to the~~
6 ~~California Business and Professions Code, as required in Section 29.3 of this Article, and upon~~
7 ~~payment of all fees for the permit, an applicant may request a temporary massage practitioner~~
8 ~~permit.~~ If requested, the Director shall issue the temporary mMassage pPractitioner permit,
9 which ~~is~~ shall be valid for the period during which the application is under review, but in no
10 event for more than 60 business days. The Director may revoke the temporary permit at any
11 time if he or she finds that the applicant has failed to meet any of the requirements of Section
12 29.412 or violated any provision of this Article 29 or any rules or regulations promulgated by the
13 Director related to the practice of Massage.

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

18 **SEC. 29.14. EDUCATIONAL MATERIALS.**

19 The Director shall provide all persons receiving a Massage Practitioner permit with culturally
20 and linguistically appropriate educational materials regarding the City and County of San Francisco
21 Sanctuary policy, employee rights, and information on a variety of resources, including linkages to
22 health services, victim assistance services, and emergency numbers and hotlines to call for information
23 and assistance.

24 **SEC. 29.156. MESSAGE PRACTITIONER IDENTIFICATION CARD. FOR**
25 **PRACTITIONERS NOT CERTIFIED BY THE CAMTC.**

1 The Director shall provide ~~each all m~~Massage Practitioners ~~granted a permit, who are not~~
2 ~~certified as a massage practitioner or therapist by the CAMTC pursuant to the California Business and~~
3 ~~Professions Code,~~ with a photo identification card. ~~Massage establishments must post practitioner~~
4 ~~identification cards at all times in a public area for all massage practitioners working at any massage~~
5 ~~establishment or solo practitioner massage establishment.~~ The Massage Practitioner must present the
6 identification card ~~must be presented~~ to any City health inspector or law enforcement officer
7 upon request. ~~at all times during the regular business hours of any massage establishment or solo~~
8 ~~practitioner massage establishment.~~

9 **SEC. 29.167. MASSAGE PRACTITIONER ANNUAL LICENSE FEE.**

10 Every ~~m~~Massage ~~p~~Practitioner shall pay to the Tax Collector an annual license fee, as
11 set forth in Section 29.2640.

12 **SEC. 29.17. MASSAGE PRACTITIONER CONDUCT REQUIREMENTS.**

13 (a) Required Attire. Massage Practitioners shall remain fully clothed while administering
14 massage or otherwise visible to clients on business premises, including premises designated by the
15 client through an Outcall Massage Service. The Massage Practitioner's attire shall not include:
16 (1) attire that is transparent, see-through, or that substantially exposes the Practitioner's
17 undergarments; (2) swim attire, unless the Practitioner is providing a water-based massage modality
18 that has been approved by CAMTC; or (3) attire that exposes the individual's breasts, buttocks, or
19 genitals.

20 (b) Lewd Conduct Prohibited. Massage Practitioners shall not engage in lewd conduct on
21 business premises, including locations designated by the client through an Outcall Massage Service.
22 Lewd acts include, but are not limited to: the performance of acts or simulated acts of sexual
23 intercourse, masturbation, sodomy, bestiality, copulation (oral, anal or vaginal), or flagellation; the
24 actual or simulated caressing or fondling by one adult human being of the anus or genitals of another
25

1 adult human being; the actual or simulated displaying of the pubic hair, anus, vagina, penis, vulva,
2 buttocks, areola, or any other external genitalia of the human body.

3 **SEC. 29.18. SUSPENSION OR REVOCATION OF MESSAGE PRACTITIONER**
4 **PERMIT., ~~FOR PRACTITIONERS NOT CERTIFIED BY THE CAMTC.~~**

5 (a) Grounds for Suspension or Revocation. The Director may revoke or suspend any
6 ~~m~~Message ~~p~~Practitioner permit ~~for a practitioner who is not certified as a massage practitioner or~~
7 ~~therapist by the CAMTC pursuant to the California Business and Professions Code,~~ after a public
8 hearing; if the Director finds:

9 (1) Facts sufficient to support denial of a Massage Practitioner permit on any ground
10 set forth in Section 29.12 ~~The Massage Practitioner has willfully violated any of the provisions of this~~
11 ~~Article;~~ or

12 (2) The Massage Practitioner has violated the conduct requirements in Section 29.17
13 ~~The massage practitioner has provided materially false documents or testimony;~~ or

14 (3) The Director finds that there is good cause to suspend or revoke the permit in
15 accordance with Section 26 of the Business and Tax Regulations Code ~~Within five years immediately~~
16 ~~prior to the date of application, the massage practitioner has had any license or permit related to the~~
17 ~~practice of massage revoked;~~ or

18 (4) The ~~m~~Message ~~p~~Practitioner has violated any of the provisions of this Article 29
19 or a rule or regulation adopted by the Director related to the practice of Massage.

20 (b) Hearing. ~~A Massage Practitioner who has been cited by the Department for a violation of~~
21 any provision of this Article 29 shall be scheduled to appear at a hearing before the Director. Before
22 ~~any hearing is conducted under this Section,~~ ~~t~~The Director shall provide the ~~m~~Message
23 ~~p~~Practitioner at least ~~20~~10 days' written notice. ~~The notice shall include~~ of the time, place, and
24 grounds for the hearing. If requested by the ~~m~~Message ~~p~~Practitioner, the Director shall make
25 available all documentary evidence against him or her within five two-business days of the

1 request no later than 15 days prior to the hearing. If the Director does not provide the requested
2 documentary evidence within five days, the Massage Practitioner may request, and the Director shall
3 grant, a continuance of the hearing date. At the hearing, the ~~m~~Massage ~~p~~Practitioner shall be
4 provided an opportunity to refute all evidence against him or her. The Director shall oversee
5 the hearing and issue a ruling within ~~20~~30 days of ~~its~~ the conclusion of the hearing. If the
6 Director fails to issue a ruling within this time period, the permit shall not be suspended or revoked.
7 The Director's ruling shall be the final decision of the Department.

8 (c) Summary Suspension. The Director may suspend summarily any ~~m~~Massage
9 ~~p~~Practitioner permit issued under this Article 29 pending a noticed suspension or revocation
10 ~~on revocation or suspension~~ when, in the opinion of the Director, the public health or
11 safety requires such summary suspension. The Director ~~Any affected permittee~~ shall provide be
12 given written notice of such summary suspension to the Massage Practitioner by hand delivery in
13 writing delivered to said permittee in person or by registered mail-letter.

MESSAGE BUSINESS PERMITS

SEC. 29.9. REGISTRATION OF MESSAGE ESTABLISHMENTS THAT EMPLOY ONLY CAMTC CERTIFIED PRACTITIONERS.

17 ~~(a) All massage establishments that employ only massage practitioners who are certified by~~
18 ~~the CAMTC pursuant to the California Business and Professions Code, must provide copies of those~~
19 ~~certificates, and the home and work addresses of those massage practitioners to the San Francisco~~
20 ~~Department of Public Health for all massage practitioners employed by the establishment. The~~
21 ~~massage establishment must provide notice of any changes within thirty (30) days.~~

22 ~~(b) All massage establishments that employ only massage practitioners who are certified by~~
23 ~~CAMTC must notify the Department if any CAMTC certified massage practitioner loses their CAMTC~~
24 ~~certification.~~
25

1 ~~(e) Any massage establishment that employs any massage practitioner who is not certified by~~
2 ~~CAMTC must obtain a permit to operate a massage establishment from the San Francisco Department~~
3 ~~of Public Health in accordance with this Article 29.~~

4 ~~(d) Upon notice from CAMTC, that the CAMTC certification of a massage practitioner has~~
5 ~~been suspended or revoked, the Department shall send written notice to the massage establishment that~~
6 ~~it must obtain a permit from the San Francisco Department of Public Health in order to continue to~~
7 ~~operate, and that it must apply for the permit within thirty (30) days of the notice. Failure to either~~
8 ~~apply for a San Francisco permit or to regain exempt status by employing only CAMTC-certified~~
9 ~~massage practitioners within thirty (30) days, may result in administrative penalties as set forth in this~~
10 ~~Article 29, Section 29.27.~~

11 **SEC. 29. 2510. MASSAGE BUSINESS PERMIT REQUIRED; EXEMPTIONS. FOR A**
12 **MASSAGE ESTABLISHMENT, SOLO PRACTITIONER; MASSAGE ESTABLISHMENT, OR**
13 **OUTCALL MASSAGE SERVICE, EXEMPTIONS FOR PRACTITIONERS NOT CERTIFIED BY**
14 **THE CAMTC.**

15 ~~(a) Permit Required. It shall be unlawful for any person Owner of a Massage Establishment,~~
16 ~~Sole Practitioner Massage Establishment, or Outcall Massage Service to operate that Massage~~
17 ~~Business engage in, conduct, or carry on, or to permit to be engaged in, conducted, or carried on, in or~~
18 ~~upon at any location premises in the City the operation of a massage establishment, solo practitioner~~
19 ~~massage establishment, or outcall massage service without first obtaining a permit for such Massage~~
20 ~~Business from the Director. In the event that a business owner or operator disclaims that the business~~
21 ~~is a Massage Business, the Director may hold a hearing to determine whether a permit under this~~
22 ~~Section 29.25 is required. , unless all persons employed by that establishment or service are certified as~~
23 ~~massage practitioner(s) or therapist(s) by the CAMTC pursuant to the California Business and~~
24 ~~Professions Code.~~

1 (b) Exemptions. The following businesses may provide Massage services without obtaining a
2 Massage Business permit:

3 (1) Businesses providing Massage services performed solely by physicians, surgeons,
4 chiropractors, osteopaths, nurses or any physical therapists who are duly licensed to practice their
5 respective professions in the State of California and persons working directly under the supervision of
6 or at the direction of such licensed persons, working at the same location as the licensed person, and
7 administering massage services subject to review or oversight by the licensed person.

8 (2) Businesses providing Massage services performed solely by barbers or
9 cosmetologists who are duly licensed under the laws of the State of California, while engaging in
10 practices within the scope of their licenses, and limited to the massaging of the neck, face, scalp, hands
11 or feet of the clients.

12 (3) Hospitals, nursing homes, mental health facilities, or any other health facilities duly
13 licensed by the State of California, providing Massage services performed solely by their employees
14 acting within the scope of their employment.

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

21 ~~(e) A permit shall not be required under this Section where the services are provided on the~~
22 ~~premises (1) by a licensed or certificated health care practitioner or (2) by a barber, cosmetologist,~~
23 ~~esthetician, or manicurist, licensed or certificated pursuant to Division 3, Chapter 10, of the California~~
24 ~~Business and Professions Code, practicing massage as part of his or her work as a barber,~~
25 ~~cosmetologist, esthetician, or manicurist, and within the scope of any relevant state restrictions on the~~

1 ~~practice of massage by members of those professions. A non-profit organization providing massage~~
2 ~~services on its premises, and the individuals providing the massage services, are exempt from permit~~
3 ~~and license fees under this Article, but the organization and the individuals must obtain the necessary~~
4 ~~permits and licenses and otherwise comply with all relevant requirements.~~

5 (c) Previously Exempt Massage Businesses. A Massage Business previously exempt from the
6 Massage Business permit requirement under prior Section 29.9 but not currently exempt under
7 subsection (b) of this Section 29.25 may continue to operate without a permit until its application for a
8 permit is submitted and decided; provided that the Owner submits a completed application within 90
9 days of the effective date of the ordinance deleting former Section 29.9; and further provided that the
10 Massage Business complies with all provisions of this Article 29 and any rules and regulations that
11 apply to Massage Businesses during the interim period in which it operates without a permit. The
12 Director may conduct a public hearing on the application, as provided in Section 29.29(b). The
13 Director may deny the application for a Massage Business permit on any ground enumerated in
14 Sections 29.29 and 29.33, grant the permit, or grant the permit with conditions.

15 **SEC. 29.26H. APPLICATION FOR MASSAGE ESTABLISHMENT, SOLE**
16 **PRACTITIONER MASSAGE ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE**
17 **PERMIT. ~~FOR PRACTITIONERS NOT CERTIFIED BY THE CAMTC.~~**

18 (a) Application Requirements. Unless all massage practitioners or therapists providing
19 services are certified as a massage practitioner or therapist by CAMTC pursuant to the California
20 Business and Professions Code, every applicant To apply for a mMassage eEstablishment, sSole
21 pPractitioner mMassage eEstablishment, or oOutcall mMassage sService permit, the Owner
22 shall:

- 23 (1) fFile an application with the Director upon a form provided by the Director;
24 (2) pProvide a complete set of fingerprints in the manner required by the Director
25 from any person with an ownership interest in the Massage Business, through the Live Scan process, or

1 ~~any comparable successor technology~~, for the purpose of a undergoing a criminal background
2 check; and

3 (3) ~~p~~Pay a non-refundable application fee, as set forth in Section 29.2641.; ~~and~~

4 (4) Permit inspection of any Massage facilities proposed to be operated under the
5 permit by all relevant City departments.

6 (b) Applicant Information. The application form shall require the applicant to provide set
7 forth, under penalty of perjury, the following information:

8 (1) The name(s), address(es), and any other identifying information regarding the
9 Owner(s) as requested by the Director;

10 (12) ~~The exact nature~~ A description of the all services to be rendered by the
11 Massage Business;

12 (23) The address of ~~the proposed place of business~~ any facilities proposed to be
13 operated under a Massage Establishment or Sole Practitioner Massage Establishment permit facilities
14 thereof, and a copy of the rental agreement or lease showing the names of the landlord and all
15 of the tenants or lessees who are parties to the rental agreement; or, if the Owner owns the
16 premises, a copy of the deed and a disclosure of any other person or entity with a shared ownership
17 interest in the premises;

18 (34) The number of individuals to be employed by the Massage bBusiness, and,
19 except in the case of a ~~sole~~ Sole massage pPractitioner Massage eEstablishment, the names and
20 permit or certificate numbers of any ~~m~~ Massage pPractitioners or CAMTC Certified Practitioners
21 who shall operate under that permit;

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

23 (5) ~~Any history of previous massage~~ All permits, certificates, or licenses related to
24 the practice of Massage or the operation of a Massage Establishment or Massage service, currently or
25 formerly held by an Owner, issued in San Francisco or issued by CAMTC or elsewhere, including

1 any discipline imposed by the issuing authority and a statement whether the permit holder is currently
2 the subject of a disciplinary process, including whether any such permit or license has been revoked
3 and the reasons therefor, for each applicant; and

4 (6) All felony or misdemeanor convictions for ~~the applicant~~ each person with an
5 ownership interest in the Massage Business. within the preceding ten years, including, but not limited
6 to, felony sexual assault; sexual battery (Cal. Penal Code 243.4), rape (Cal. Penal Code 261);
7 statutory rape (Cal. Penal Code 261.5); prostitution offenses related to pimping (Cal. Penal Code 266
8 and applicable subsections); pandering (Cal. Penal Code 266i); sex crimes for which registration is
9 required under the Sex Offender Registration Act (Cal. Penal Code 290); keeping or residing in house
10 of ill fame (Cal. Penal Code 315); keeping disorderly house (Cal. Penal Code 316); human trafficking
11 (Cal. Penal Code 236.1); convictions in any other state of any offense which, if committed or attempted
12 in this state, would have been punishable as one or more of the referenced offenses of this subdivision;
13 and, conspiracy or attempt to commit any such offense described in the subsections above.; and

14 (e7) Any additional information as required by the The Director., is hereby authorized
15 to require in the application any other information including, but not limited to, information related to
16 the health, hygiene, and sanitation of the premises. and any information necessary to confirm the
17 accuracy of the matters set forth in the application.

18 (e) ~~The Director is hereby authorized to require in the application any other information~~
19 ~~including, but not limited to, information related to the health, hygiene, and sanitation of the premises~~
20 ~~and any information necessary to confirm the accuracy of the matters set forth in the application.~~

21 (cd) Organizational Owners. If an applicant for a massage the Owner of the Massage
22 eEstablishment or oOutcall mMassage sService permit is or includes a corporation, the name of
23 the corporation shall be set forth exactly as shown in its articles of incorporation together with
24 the names and residence addresses of each of the officers, directors, and each stockholder
25 holding more than 10 percent of the stock of the corporation. If the Owner application is or

1 *includes* a partnership, the application shall set forth the name and the residence address of
2 each of the partners, including limited partners. If one or more of the partners is a
3 corporation, the provisions of this *Section subsection 29.26(c)* pertaining to corporate applicants
4 applies. The *applicant shall provide the same permit and criminal history* information required of
5 *individual applicants, set forth* in subsections *(a)(2), (b)(1), (b)(5), and (b)(6) of this Section 29.26-*
6 *above* for each officer, director, and stockholder holding more than 10 percent of the stock of
7 the corporation, or for each partner, including limited partners.

8 *(de) Proof of Massage Practitioner Permit or CAMTC Certification for Sole Practitioners.* In
9 addition to the information required under subsections *(b) and (e) of this Section 29.26,* an
10 applicant for a *sole Sole pPractitioner mMassage eEstablishment* permit shall provide proof that
11 he or she holds a current, valid *advanced mMassage pPractitioner* permit *or CAMTC certificate,*
12 *issued by the Director under Section 29.2.*

13 *(ef) Massage Establishment Compliance with Planning Code Notice Requirement.* *An*
14 *Applicants for a Massage Establishment permit* shall also submit proof of compliance with any
15 applicable Planning Code requirements regarding notice and posting of the proposed *Massage*
16 *eEstablishment.*

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

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

25 *(i) No massage establishment permit shall be issued if the Director finds:*

1 ~~(1) The applicant has provided materially false documents or testimony; or~~
2 ~~(2) The applicant has not complied fully with the provisions of this Article; or~~
3 ~~(3) Within five years immediately prior to the date of application, the applicant has had~~
4 ~~any license or permit related to the operation of a massage establishment revoked by the City, another~~
5 ~~City or County, or by the CAMTC; or~~

6 ~~(4) The applicant has been convicted of any of the following offenses or convicted of an~~
7 ~~offense outside the State of California that would have constituted any of the following offenses if~~
8 ~~committed within the State of California, within the last five years: felony sexual assault; sexual battery~~
9 ~~(Cal. Penal Code 243.4), rape (Cal. Penal Code 261); statutory rape (Cal. Penal Code 261.5);~~
10 ~~prostitution offenses related to pimping (Cal. Penal Code 266 and applicable subsections); pandering~~
11 ~~(Cal. Penal Code 266i); sex crimes for which registration is required under the Sex Offender~~
12 ~~Registration Act (Cal Penal Code 290); keeping or residing in house of ill fame (Cal. Penal Code 315);~~
13 ~~keeping disorderly house (Cal. Penal Code 316); supervision of a prostitute (Cal. Penal Code 652.23);~~
14 ~~human trafficking (Cal. Penal Code 236.1); convictions in any other state of any offense which, if~~
15 ~~committed or attempted in this state, would have been punishable as one or more of the referenced~~
16 ~~offenses of this subdivision; and, conspiracy or attempt to commit any such offense described in the~~
17 ~~subsections above; or,~~

18 ~~(5) A massage establishment permit at the same location was revoked within the prior~~
19 ~~24 months.~~

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

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

3 **SEC. 29.2712. OPERATING REQUIREMENTS FOR ALL MASSAGE FACILITIES.**
4 **ESTABLISHMENTS.**

5 ~~All proposed massage facilities~~ All massage establishments must comply with the following
6 ~~reasonable health and safety~~ requirements:

7 (a) Toilet Rooms and Other Rooms. Toilet rooms shall be provided for ~~patrons~~ clients in
8 convenient locations.

9 (1) Construction of rooms used for toilets, as well as rooms used for, tubs,
10 steam baths, and showers shall be made waterproof with hard nonabsorbent materials ~~which~~
11 ~~that~~ are easily cleaned and shall be installed in accordance with the San Francisco Building
12 Code.

13 (2) Plumbing fixtures in toilet rooms as well as rooms used for, tubs, steam
14 baths, and showers shall be installed in accordance with the San Francisco Plumbing Code.

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

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

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

18 (b) Handwashing Facilities. Handwashing facilities shall be provided within or adjacent
19 to the toilet rooms and shall be equipped with an adequate supply of hot and cold running
20 water under pressure.

21 (1) ~~Lavatories or wash basins~~ Handwashing facilities must ~~have~~ provide soap in a
22 dispenser and sanitary towels.

23 (2) Handwashing facilities shall be readily accessible to ~~the~~ massage
24 practitioners.

1 (c) Light and Ventilation. All portions of the ~~massage e~~Establishment shall be provided
2 with adequate light ~~and ventilation~~ by means of windows, ~~or skylights, or with an area of not less~~
3 ~~than of the total floor area, or shall be provided~~ with an approved artificial light. Adequate
4 ventilation shall be provided by means of windows or ~~and~~ a mechanical operating ventilating
5 system.

6 (1) Toilet, dressing, and massage rooms shall be provided with at least 108 lux
7 (10 foot candles) of light.

8 (2) All electrical equipment shall be installed in accordance with the
9 requirements of the San Francisco Electrical Code.

10 ~~(d) A room, enclosure, or designated area shall be provided where patrons can change and~~
11 ~~store their clothes.~~

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

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

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

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

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

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

24 ~~———— (5) The massage establishment shall appropriately bag and dispose of soiled refuse.~~

1 ~~———— (6) Every massage establishment shall thoroughly clean its wet and dry heat rooms,~~
2 ~~shower compartments, and toilet rooms each business day.~~

3 ~~———— (7) Bathtubs shall be thoroughly cleaned and sanitized after each use.~~

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

8 ~~(h) Massage practitioners shall not engage in lewd or lascivious acts on the premises of a~~
9 ~~massage establishment during business hours, including but not limited to: the performance of acts, or~~
10 ~~simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, copulation (oral, anal or~~
11 ~~vaginal), flagellation; the actual or simulated caressing or fondling by one adult human being of the~~
12 ~~anus or genitals of another adult human being; the actual or simulated displaying of the pubic hair,~~
13 ~~anus, vagina, penis, vulva, buttocks, areola, or any other external genitalia of the human body.~~

14 ~~(i) Massage practitioners shall be fully clothed in clean, non-transparent clothing at all times~~
15 ~~that shall not expose their genitals, pubic area, buttocks or chest, nor shall the operator of a massage~~
16 ~~business allow or permit any person providing services at the massage establishment to dress in non-~~
17 ~~conforming clothing~~

18 ~~(j) Massage Establishment interior and exterior doors shall remain unlocked during business~~
19 ~~hours except in establishments where all practitioners are certified by the CAMTC, when there is no~~
20 ~~staff available to ensure security for clients and massage staff who are behind closed doors.~~

21 ~~(k) No alcoholic beverages or drugs may be sold, served, used, or possessed on the premises of~~
22 ~~any massage establishment during business hours. "Alcoholic beverage" includes a mixture of one or~~
23 ~~more alcoholic beverages ingested separately or as a mixture as defined in Section 23004 of the~~
24 ~~California Business and Professions Code. "Drug" shall include all narcotics, drugs, or controlled~~

1 ~~substances as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the California~~
2 ~~Health and Safety Code.~~

3 ~~(1) Unless the massage establishment operator and all practitioners are CAMTC certified, the~~
4 ~~operator of the massage establishment must post a notice informing the public and victims of human~~
5 ~~trafficking of telephone hotline numbers to seek help or report unlawful activity in English, Spanish,~~
6 ~~Cantonese and Vietnamese, and other appropriate languages as determined by the Department in a~~
7 ~~conspicuous place near the public entrance of the massage establishment or in another conspicuous~~
8 ~~location in clear view of the public and employees where similar notices are customarily posted~~
9 ~~pursuant to Cal. Civil Code Section 52.6.~~

10 **SEC. 29.2813. REFERRAL OF MASSAGE ESTABLISHMENT AND SOLE**
11 **PRACTITIONER MASSAGE ESTABLISHMENT PERMIT APPLICATIONS TO OTHER**
12 **DEPARTMENTS; POLICE DEPARTMENT NOTIFICATION, FOR PRACTITIONERS NOT**
13 **CERTIFIED BY THE CAMTC.**

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

23 (b) Law Enforcement. The Director shall notify the Police Department of all approved
24 ~~and denied Massage Business~~ permit applications.

1 **SEC. 29.2914. ISSUANCE OF MASSAGE ESTABLISHMENT, SOLE**
2 **PRACTITIONER MASSAGE ESTABLISHMENT, OR OUTCALL MESSAGE SERVICE**
3 **PERMIT. ~~FOR PRACTITIONERS NOT CERTIFIED BY THE CAMTC.~~**

4 (a) ~~Within 14 days following a hearing, or, if no hearing is held, within~~ 60 business days,
5 following receipt of a completed application for a ~~m~~Message ~~Business establishment permit, or,~~
6 ~~for applications subject to referral under Section 29.28, within 30 days of receiving all written findings,~~
7 ~~whichever is later, solo practitioner massage establishment, or outcall message service permit where~~
8 ~~one or more practitioners are not certified as a massage practitioner or therapist by the CAMTC~~
9 ~~pursuant to the California Business and Professions Code,~~ the Director shall either issue the permit
10 or mail a written statement of his or her reasons for denial thereof to the applicant. If the
11 Director takes neither action, the permit shall be deemed issued.

12 **(b) Hearing on Application.** *The Director may, in his or her discretion, hold a hearing on any*
13 *pending application for a Massage Establishment, Sole Practitioner Massage Establishment, or Outcall*
14 *Massage Service permit. The Director shall give the applicant at least 10 days' written notice of the*
15 *time and place of the hearing.*

16 **(c)** No ~~m~~Message ~~e~~Establishment, ~~s~~Sole ~~p~~Practitioner ~~m~~Message ~~e~~Establishment, or
17 ~~o~~Outcall ~~m~~Message ~~s~~Service permit shall be issued if the Director finds:

18 (1) The applicant has provided materially false information, documents, or
19 testimony in support of the application or in any other matter before the Director; or

20 (2) The ~~facilities operation~~ as proposed by the applicant would not comply with
21 all applicable laws including, but not limited to, the facilities requirements set forth in Section
22 29.27, the City Building, Planning, Housing, and Fire Codes, or any rule or regulation related to
23 Massage facilities adopted by the Director pursuant to this Article 29; or

24 (3) Within one year prior to the application, the applicant has had any license or
25 permit of any kind suspended or revoked by the Director; or

1 (4) Within five years immediately prior to the date of application, the applicant
2 has had any license, certificate, or permit related to the practice of ~~m~~Massage or operation of a
3 Massage Establishment or Massage service revoked; or

4 (5) The applicant ~~and any other individual who will be directly engaged in the~~
5 ~~management and operation of the massage establishment, solo practitioner massage establishment, or~~
6 ~~outeall massage service~~ has been eConvicted of any of the following offenses ~~or convicted of an~~
7 ~~offense outside the State of California that would have constituted any of the following offenses if~~
8 ~~committed within the State of California:~~

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

11 (B) Any misdemeanor sexual battery; or

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

13 (D) Pimping or pandering; or

14 (E) Any offense related to human trafficking; or

15 (F) Any offense requiring registration pursuant to Section 290 190 of the
16 California Penal Code; ~~or, for offenses committed outside California, any offense requiring~~
17 registration in California pursuant to Penal Code Section 290.005; or

18 (6) The Director revoked permission to operate a Massage Business at the same
19 location within the prior 12 months; or

20 (7) The Director concludes there is good cause to deny the permit in accordance with
21 Business and Tax Regulations Code Section 26; or

22 (8) The Director finds that the premises or the Massage Business will be or is being
23 managed, conducted, or maintained in such a manner as to endanger the health and safety of the
24 employees or clients, or to coerce any employee to engage in illegal conduct.
25

1 (de) Discretionary Exception for Criminal Convictions. The Director may issue a permit
2 otherwise authorized under this Section to any individual Owner eConvicted of one of the
3 offenses listed in Ssubsection (c)(5) (b)(4) of this Section 29.29 if the Director finds that the
4 offense was not violent, the conviction occurred at least five years prior to the date of
5 application, and the applicant has not been convicted subsequently of any of the listed one of
6 those offenses.

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

11 (e) Sole Practitioner Massage Establishments. Notwithstanding the provisions of Section
12 29.15, the Director may issue a sole Sole pPractitioner mMassage eEstablishment permit
13 authorizing more than four sole mMassage pPractitioners or CAMTC Certified Practitioners to
14 operate out of the same place of business location if the Director finds good cause exists and
15 the operation of the Sole Practitioner Massage eEstablishment will not have a negative impact
16 on the neighborhood.

17 (f) Right to Director's Hearing. If an application for a a Massage Establishment, Sole
18 Practitioner Massage Establishment, or an Outcall Massage Service permit ~~authorized under this~~
19 ~~Section~~ is denied, and provided that the Director did not hold a hearing on the application as
20 provided in subsection (b) of this Section, the applicant may appeal the denial within 30 days ~~of the~~
21 ~~date~~ of receipt of the notice of denial, ~~the applicant may appeal the decision~~ by notifying the
22 Director in writing and explaining. ~~The notice shall set forth in detail~~ the ground or grounds for the
23 appeal. Within 30 days of receipt of the notice of appeal, the Director shall conduct a hearing
24 to 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~~ the
2 conclusion of the hearing. If the Director fails to rule within this time period, the permit denial shall
3 be deemed sustained. The Director's ruling shall be the final decision of the Department.

4 **SEC. 29.30. ANNUAL LICENSE FEE.**

5 Every Massage Establishment, Sole Practitioner Massage Establishment, or Outcall Massage
6 Service permit holder shall pay to the Tax Collector an annual license fee as set forth in Section 29.41.

7 ~~SEC. 29.15. EMPLOYMENT OF MASSAGE PRACTITIONERS.~~

8 ~~It shall be the responsibility of every operator of a massage business or outcall massage~~
9 ~~service, or the employer of any individual purporting to act as a massage practitioner, to ensure that~~
10 ~~such individual is certified as a massage practitioner or therapist by the CAMTC pursuant to the~~
11 ~~California Business and Professions Code or has obtained a permit pursuant to this Article.~~

12 ~~SEC. 29.16. REGISTER OF EMPLOYEES.~~

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

17 ~~SEC. 29.17. EMPLOYMENT OF PERSONS UNDER THE AGE OF 18 PROHIBITED.~~

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

20 ~~SEC. 29.18. DISPLAY OF PERMIT; HOURS OF OPERATION.~~

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

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

3 **SEC. 29.31. OPERATING REQUIREMENTS.**

4 Massage Establishments, Sole Practitioner Massage Establishments, and Outcall Massage
5 Services must comply with the following operating requirements to the extent applicable:

6 (a) Cleanliness and Hygiene. Massage facilities, including all appliances and apparatuses,
7 shall be kept clean and operated in a sanitary condition.

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

10 (2) Clean sheets and towels shall be provided, laundered after each use, and stored in
11 a sanitary manner.

12 (3) No towels or sheets shall be laundered or dried on the premises in the absence of
13 suitable laundry facilities.

14 (4) Smooth, cleanable, and appropriately labeled receptacles for the storage of soiled
15 linens and towels shall be provided.

16 (5) Soiled refuse shall be appropriately bagged and disposed of.

17 (6) Wet and dry heat rooms, shower compartments, and toilet rooms shall be
18 thoroughly cleaned each business day.

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

20 (b) Changing Area. A room, enclosure, or designated area shall be provided where clients
21 can change and store their clothes.

22 (c) Employee Area. A room, enclosure, or designated area that is separate from the toilet,
23 massage room(s), steam room, or other common areas shared by the clients shall be made available to
24 employees at all times.

1 (d) Employment of Minors Prohibited. It shall be unlawful to employ any individual who is not
2 at least 18 years of age.

3 (e) Register of Practitioners. Every Massage Establishment or Outcall Massage Service that
4 hires or contracts with individuals to provide Massage services shall ensure at all times that each such
5 individual holds a valid and current Massage Practitioner permit or CAMTC certificate. The Massage
6 Establishment or Outcall Massage Service shall maintain a register of practitioners that includes each
7 practitioner's permit or CAMTC certificate number, which shall be available for inspection by the
8 Department at all times.

9 (f) Practitioner Conduct. Massage Establishments shall be responsible for the conduct of all
10 individuals providing Massage for Compensation on their business premises and shall ensure that such
11 individuals do not wear improper attire or engage in lewd conduct as set forth in Section 29.17.

12 (g) Doors to Remain Unlocked. Massage Establishment interior and exterior doors shall
13 remain unlocked while the Massage Establishment is open. Exterior doors may remain locked if the
14 Massage Establishment is owned by one individual with no more than one employee or independent
15 contractor.

16 (h) No Alcohol or Illegal Drugs Permitted on Premises. No alcoholic beverages or drugs may
17 be sold, served, used, or possessed on business premises during business hours. "Alcoholic beverage"
18 includes a mixture of one or more alcoholic beverages ingested separately or as a mixture as defined in
19 Section 23004 of the California Business and Professions Code. "Drug" shall include all narcotics,
20 drugs, or controlled substances as defined in Chapter 2 (commencing with Section 11053) of Division
21 10 of the California Health and Safety Code.

22 (i) Human Trafficking Information Notices. Massage Establishments must comply with the
23 requirements of California Civil Code Section 52.6. The required notices of human trafficking
24 information and telephone hotline numbers shall be posted in English, Spanish, Cantonese,
25 Vietnamese, and other appropriate languages as determined by the Department.

1 (j) Residential Use. Massage facility premises shall not be used as a sleeping room or for any
2 other residential purpose.

3 (k) Establishment Permit to be Displayed. Every permit to operate a Massage Establishment
4 or Sole Practitioner Massage Establishment shall be displayed in a conspicuous place within the
5 Establishment such that the permit may be readily seen by individuals entering the premises.

6 (l) Outcall Massage Service Permit Subject to Inspection. Every permit to operate an Outcall
7 Massage Service must be made available for inspection by the Department at all times while providing
8 Massage services.

9 (m) Hours of Operation. No Massage Business shall operate or provide Massage services
10 during the hours between 10:00 p.m. and 7:00 a.m.

11 **SEC. 29.3219. INSPECTION.**

12 ~~(a)~~ Any member of the Department ~~of Public Health~~ may ~~make an inspection of any~~
13 ~~m~~Massage ~~e~~Establishment or ~~s~~Sole ~~p~~Practitioner ~~m~~Massage ~~e~~Establishment ~~in the City for the~~
14 ~~purpose of determining that to determine whether the e~~Establishment is ~~operating~~ in compliance
15 with the provisions of ~~s~~State law or this Article 29, or for the purpose of providing ~~health and~~
16 ~~safety information~~ educational materials to employees of the ~~e~~Establishment in culturally and
17 linguistically appropriate languages regarding the City and County of San Francisco Sanctuary City
18 policy, employee rights, and information on a variety of resources, including linkage to health care
19 services, victim services, and emergency numbers and hotlines to call for information and assistance.
20 The Director shall adopt regulations ~~under Section 29.25~~ governing the use of double doors or
21 other structural devices that interfere with reasonable inspections and do not have legitimate
22 safety or security purposes. ~~(b)~~—Nothing in this Section shall be construed to limit or restrict the
23 lawful authority of a police officer or other City employee to enter premises licensed under this
24 Article 29. ~~(1)~~ pursuant to a search warrant signed by a magistrate and issued upon a showing of
25 probable cause to believe that contraband is present or that a crime has been committed or attempted,

1 ~~(2) without a warrant in the case of an emergency or other exigent circumstances, or (3) as part of any~~
2 ~~other lawful entry in connection with a criminal investigation or enforcement action.~~

3 ~~SEC. 29.20. MASSAGE ESTABLISHMENT, SOLO PRACTITIONER MASSAGE~~
4 ~~ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE LICENSE FEE.~~

5 ~~(a) Every person holding a massage establishment, solo practitioner massage establishment,~~
6 ~~or outcall massage service permit shall pay to the Tax Collector an annual license fee, as set forth in~~
7 ~~Section 29.26; provided, however, that the annual license fee shall be \$10 for any person holding a~~
8 ~~massage establishment permit who is over 60 years old and does not employ others and whose gross~~
9 ~~receipts from the massage business operated under the authority of said permit for the previous year~~
10 ~~were less than \$1,000.~~

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

14 **SEC. 29.3321. SUSPENSION OR REVOCATION OF MASSAGE ESTABLISHMENT,**
15 **SOLE PRACTITIONER MASSAGE ESTABLISHMENT, OR OUTCALL MASSAGE**
16 **SERVICE PERMIT FOR PRACTITIONERS NOT CERTIFIED BY THE CAMTC.**

17 (a) Grounds for Suspension or Revocation. The Director may revoke or suspend any
18 ~~m~~Massage ~~e~~Establishment, ~~s~~Sole ~~p~~Practitioner ~~m~~Massage ~~e~~Establishment, or ~~o~~Outcall
19 ~~m~~Massage ~~s~~Service permit issued to massage establishments where all of the practitioners are not
20 certified as a massage practitioner or therapist by the CAMTC pursuant to the California Business and
21 Professions Code, after a hearing, if the Director finds:

22 (1) Facts sufficient to support the denial of such permit on any ground set forth in
23 Section 29.29; The permittee has violated any of the provisions of this Article; or

24 (2) The permittee has refused to permit a lawful inspection of any duly authorized
25 City health inspector to inspect the its business premises or its the operations therein; or

1 (3) The permittee has engaged in any conduct in connection with the operation
2 of the business that violates the operating requirements set forth in Section 29.31, any rules or
3 regulations related to Massage Business operations, or any sState or local laws; or

4 (4) ~~in the case of a massage establishment or outcall massage service permit, a~~Any
5 employee or independent contractor of the permittee has engaged in ~~any~~conduct that violates
6 any state or local laws at permittee's place of business, and the permittee had or, in the
7 exercise of due diligence, should have had ~~actual or constructive~~ knowledge ~~by due diligence~~ of the
8 prohibited illegal conduct ~~In the case of a solo practitioner massage permit, the permittee no longer~~
9 ~~holds a current, valid advanced massage practitioner permit issued by the Director;~~ or

10 (5) The Director determines ~~by clear and convincing evidence~~ that such Massage
11 ~~Business~~ is being managed, conducted, or maintained without regard for public health or the
12 health of clients patrons, customers, or employees, or without due regard ~~to~~ for proper sanitation
13 and hygiene; or

14 (6) The Director finds good cause to suspend or revoke the permit in accordance with
15 Business and Tax Regulations Code Sections 24 and 26. The permittee has violated a rule or regulation
16 adopted by the Director pursuant to Section 29.25.

17 (b) Hearing. A permit holder cited for a violation of any provision of Article 29 or the rules
18 and regulations promulgated by the Director under Section 29.2 shall be scheduled to appear at a
19 hearing held by the Director. Before any hearing is conducted under this Section, tThe Director shall
20 provide the permittee at least 2010 days' written notice of the ~~The notice shall include the~~time,
21 place, and grounds for the hearing. If requested by permittee, the Director shall make
22 available all documentary evidence against permittee within five days of the request no later than
23 15 days prior to the hearing. If the Director does not provide the requested documentary evidence
24 within five days, the permit holder may request, and the Director shall grant, a continuance of the
25 hearing date. At the hearing, the permittee shall be provided an opportunity to refute all

1 evidence against him or her. The Director shall oversee the hearing and issue a ruling within
2 2030 days of the its conclusion of the hearing. If the Director fails to issue a ruling in this time
3 period, no suspension or revocation shall be imposed. The Director's ruling shall be the final
4 decision of the Department.

5 (c) Summary Suspension. The Director may suspend summarily any mMassage
6 eEstablishment, sSole pPractitioner mMassage eEstablishment, or oOutcall mMassage
7 sService permit issued under this Article 29 pending a noticed revocation or suspension hearing
8 on revocation or suspension when, in the opinion of the Director, the public health or safety
9 requires such summary suspension. Any affected permittee The Director shall provide written be
10 given notice of such summary suspension to the permit holder by hand delivery or registered mail.
11 in writing delivered to said permittee in person or by registered letter.

12 ~~SEC. 29.22. HEARINGS.~~

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

17 ~~SEC. 29.23. TRANSFER OF PERMIT.~~

18 ~~No permit issued under this Article shall be transferable.~~

19 ~~SEC. 29.24. BUSINESS TAX AND ZONING INFORMATION, RESOURCES FOR MASSAGE~~
20 ~~PRACTITIONERS.~~

21 ~~(a) Upon issuing or renewing any registration or permit issued under this Article, the Director~~
22 ~~and the Tax Collector shall also provide the permit holder with general information, including~~
23 ~~appropriate referrals to other City departments, regarding (1) the need and procedure for registering a~~
24 ~~business with the Tax Collector, and, (2) possible zoning restrictions on the operation of a massage~~
25 ~~practice.~~

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

5 ~~SEC. 29.25. RULES AND REGULATIONS; COMPLAINT LINE.~~

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

12 ~~(b) The Director shall maintain a phone line for inquiries and complaints regarding massage~~
13 ~~businesses and practitioners.~~

14
15 **FEES**

16 **SEC. 29.4026. MASSAGE PRACTITIONER FEES.**

17 The application fee for a Massage Practitioner permit shall be \$146. The annual license fee for
18 a Massage Practitioner permit shall be \$123. The fee shall be due annually on March 31 of each year,
19 pursuant to Section 76.1, Article 2 of the Business and Tax Regulations Code.

20 **SEC. 29.41. MASSAGE ESTABLISHMENT, SOLE PRACTITIONER MASSAGE**
21 **ESTABLISHMENT, AND OUTCALL MASSAGE SERVICE FEES.**

22 (a) Massage Establishments. The application fee for a mMassage eEstablishment permit,
23 as provided in Section 29.11, shall be \$681,658. The annual license fee for a mMassage
24 eEstablishment, as provided in Section 29.20, shall be \$1,214,173. The Fee shall be due
25

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

3 (b) Sole Practitioner Massage Establishments. The application fee for a ~~sole~~ Sole
4 pPractitioner mMassage eEstablishment permit, ~~as provided in Section 29.11,~~ shall be \$~~497~~480.
5 The annual license fee for a ~~sole~~ Sole pPractitioner mMassage eEstablishment, ~~and for massage~~
6 ~~establishments where all practitioners are certified by the CAMTC, as provided in Section 29.20,~~ shall
7 be \$~~599~~579. The ~~F~~fee shall be due annually on March 31 of each year, pursuant to Section
8 76.1, Article 2 of the Business and Tax Regulations Code.

9 (c) Outcall Massage Services. The application fee for an ~~o~~Outcal mMassage sServices
10 permit, ~~as provided in Section 29.11,~~ shall be \$~~351~~480. The annual license fee for an ~~o~~Outcal
11 mMassage sService, ~~as provided in Section 29.20,~~ shall be \$~~306~~579. The ~~F~~fee shall be due
12 annually on March 31 of each year, pursuant to Section 76.1, Article 2 of the Business and
13 Tax Regulations Code.

14 (d) Exception. ~~An advanced~~ mMassage pPractitioner or CAMTC Certified Practitioner
15 holding a ~~sole~~ Sole pPractitioner mMassage eEstablishment permit shall not be required to pay
16 any additional ~~permit~~ application or annual license fee for an ~~o~~Outcal mMassage sService
17 permit.

18 **SEC. 29.42. ADJUSTMENT OF FEES.**

19 (e) Beginning with fiscal year 2008-2009, fees set forth in this Article may be adjusted
20 each year, without further action by the Board of Supervisors, ~~asset forth in this Section.~~ Not
21 later than April 1, the Director shall report to the Controller the revenues generated by the fees
22 for the prior fiscal year and the prior fiscal year's costs of operation, as well as any other
23 information that the Controller determines appropriate to the performance of the duties set
24 forth in this Section. Not later than May 15, the Controller shall determine whether the current
25 fees have produced or are projected to produce revenues sufficient to support the costs of

1 providing the services for which the fees are assessed and that the fees will not produce
2 revenue which is significantly more than the costs of providing the services for which the fees
3 are assessed. The Controller shall, if necessary, adjust the fees upward or downward for the
4 upcoming fiscal year as appropriate to ensure that the program recovers the costs of
5 operation without producing revenue which is significantly more than such costs. The adjusted
6 rates shall become operative on July 1.

7
8 **ENFORCEMENT AND PENALTIES**

9 **SEC. 29.4527. VIOLATIONS AND ADMINISTRATIVE PENALTIES.**

10 (a) Any person who violates any provision of this Article 29 or any rule or regulation
11 adopted pursuant to Section 29.252 may, after being provided notice and an opportunity to be
12 heard, be subject to the following monetary ~~and permit~~ penalties ~~and/or permit penalties~~.

13 (1) ~~Massage Business Establishment Operating Without a Massage Business~~
14 ~~Permit from the San Francisco Department of Public Health.~~

15 (A) Administrative fine: Up to \$1,000 per day of operating without a
16 permit; and

17 (B) Permit penalty: Business location and Owner of Massage Business
18 ~~Revocation, and Massage Establishment location and permittee are ineligible for a Massage Business~~
19 ~~new permit from the San Francisco Department of Public Health for 180 days.~~

20 (C) Repeat violations: Same penalties as (a)(1)(A) and (a)(1)(B).

21 (2) ~~Establishment Violating Conditions of California Business and Professions Code~~
22 ~~Sections 4600-4620 and all Implementing Regulations.~~

23 (A) ~~Administrative fine: Up to \$1,000 per day of operating without a permit;~~
24 ~~and~~

1 ~~(B) Permit penalty: Massage Establishment location and permittee are~~
2 ~~ineligible for a permit from the San Francisco Department of Public Health for 180 days.~~

3 ~~(C) Repeat violations: Same penalties as (a)(2)(A) and (a)(2)(B).~~

4 (23) Massage Business Establishment Employing Any Person Under 18 Years of Age
5 Underage Practitioner as Defined in Section 29.17.

6 (A) Administrative fine: None.

7 (B) Permit penalty: Mandatory 60-120 days suspension of ~~m~~Massage
8 Business Establishment permit.

9 (C) Repeat violations: Revocation for second occurrence within 36
10 months of first occurrence; ~~and Massage Business Establishment location and permittee are~~
11 ~~ineligible for a new~~subsequent permit for 180 days.

12 (34) Solicitation Charges or Convictions, as Defined by California Penal Code
13 Section 647 (a) or (b) and/or San Francisco Police Code Section 225, for Anyone Working at
14 Massage Establishment.

15 (A) Administrative fine: \$5,000 to be paid by Massage Establishment
16 permittee; and

17 (B) Permit penalty: Mandatory 60-120 days suspension of Massage
18 Establishment permit.

19 (C) Repeat violations: Revocation; permittee ineligible for a subsequent
20 ~~new~~ Massage Establishment permit ~~from the San Francisco Department of Public Health,~~ at any
21 location.

22 (45) Trafficking Charges or Convictions, as Defined by California Penal Code
23 Section 236.1, for Anyone Working at Massage Establishment.

24 (A) Administrative fine: None.

1 (B) Permit penalty: Revocation; ~~and P~~ permittee ineligible for a subsequent
2 ~~new~~ Massage Establishment permit, at any location.

3 (C) Repeat violations: Same penalty as (a)(~~45~~)(B).

4 (56) Massage Establishment or Outcall Massage Service Knowingly Employing
5 Unlicensed or Uncertified Individual Without Massage Practitioner Permit or CAMTC Certification To
6 Administer Massage Practitioner or Therapist.

7 (A) Administrative fine: \$1,000 to be paid by ~~Massage Establishment~~
8 permittee.

9 (B) Permit penalty: None.

10 (C) Repeat violations: 15-30 days suspension and up to \$2,500 fine for
11 2ndsecond occurrence within a 24 month period; 30-60 days suspension or ~~permit~~ revocation,
12 and up to \$5,000 fine for ~~3rd~~third occurrence within 24 months.

13 (67) Establishment Massage Facilities Used for Residential Sleeping Purposes;
14 Without Authorization by the City and County of San Francisco Director of Public Health.

15 (A) Administrative fine: Up to \$1,000.

16 (B) Permit penalty: None.

17 (C) Repeat violations: 15-30 days suspension and up to \$2,500 fine
18 ~~and~~ for 2ndsecond occurrence within 24 months; 30-60 days suspension and up to \$5,000 fine
19 for ~~3rd~~third occurrence within 24 months.

20 (78) Presence of Beds Instead of Massage Tables.

21 (A) Administrative fine: None.

22 (B) Permit penalty: ~~Notice of violation only~~ None.

23 (C) Repeat violations: Up to \$1,000 fine for second2nd occurrence within
24 24 months; 15-30 day suspension and up to \$2,500 fine and for ~~3rd~~third occurrence within 24
25 months.

1 (89) ~~Massage Practitioner~~ Any Massage Service Provider Improperly Attired in
2 Violation of Section 29.17(a) Not Wearing Attire as Described in Section 29.12(i).

3 (A) Administrative fine: Up to \$250 per person to be paid by Massage
4 Business Establishment permittee; ~~and~~

5 (B) Permit penalty: Notice of violation None.

6 (C) Repeat violations: Up to \$500 fine per person to be paid by Massage
7 Business permittee for ~~2nd~~second and each subsequent occurrence; ~~and~~ 60-day suspension
8 ~~for of~~ Massage p Practitioner permit and 60-day suspension per person ~~of for~~ Massage Business
9 Establishment permit.

10 (910) ~~Sanitation Issues~~ Violations; Pursuant to Section 29.12(f) 32(a).

11 (A) Administrative fine: None.

12 (B) Permit penalty: Notice of violation None.

13 (C) Repeat violations: Up to \$250 fine and 60-day~~s~~ suspension ~~of for~~
14 Massage Business Establishment permit.

15 (1011) Massage Business Establishment Operating Past Between the Hours of 10:00
16 p.m. and 7:00 a.m.

17 (A) Administrative fine: Up to \$1,000.

18 (B) Permit penalty: None.

19 (C) Repeat violations: 15-30 day~~s~~ suspension and up to \$2,500 for ~~2nd~~
20 second occurrence within 24 months; 30-60 day~~s~~ suspension and up to \$5,000 fine for ~~3rd~~third
21 and each subsequent occurrence within 24 months.

22 (1112) Practicing Massage for Compensation Without a Massage Practitioner
23 Permit or CAMTC Certification.

24 (A) Administrative fine: \$250 fine.

25 ~~(B) Permit penalty: None.~~

1 (~~B~~) Repeat violations: \$500 fine for ~~2nd~~ second occurrence within 24
2 months; \$1,000 fine for ~~3rd~~ third and each subsequent occurrence within 24 months and
3 individual Practitioner ineligible for Massage Practitioner San Francisco Department of Public Health
4 permit for 180 days.

5 (~~12~~~~3~~) Anyone Engaged In Lewd Conduct or Performing Sex Acts as Defined in
6 Section ~~29.12(h)~~17(b) on Massage Business Establishment Premises During Business Hours.

7 (A) Administrative fine: \$1,000 to be paid by Massage Business
8 Establishment permittee, and

9 (B) Permit penalty: 60-day permit suspension of Massage Business
10 Establishment permit.

11 (C) Repeat violations: ~~Permit~~ Revocation of Massage Practitioner permit
12 and both practitioner and Massage Business Establishment permittee. Permit holder permanently
13 ineligible for subsequent Massage Practitioner or Massage Business Permit.

14 (~~13~~~~4~~) Failure to Post Notices as Required by Section ~~29.12(i)~~32(i).

15 (A) Administrative fine: Written warning for first violation, \$250 for
16 second and each subsequent violation within 12 months.

17 (B) Permit Penalty: 30-day suspension of Massage Business permit for
18 third and subsequent violations within 24 months.

19 (~~14~~~~5~~) All Other Violations of San Francisco Health Code Article 29; and Any
20 Massage Program Rules and Regulations.

21 (A) Administrative fine: Up to \$1,000 fine; and

22 (B) Permit penalty: Possible ~~S~~ suspension or revocation.

23 (C) Repeat violations: Up to \$2,500 fine for the second violation in a 24-
24 month period and possible permit suspension or revocation; up to \$5,000 for the third and
25 subsequent violations in a 24-month period, and permit suspension or revocation.

1 (b) Notice to Property Owner. Written notice of each Massage Business permit holder
2 violation shall be provided to the owner(s) of the property upon which the Massage Business
3 Establishment is located.

4 (c) Revenue from Fines. Administrative fines collected under this Section shall be used
5 to support the Department of Public Health and its Health Code enforcement functions.

6 (d) No Bar to Prosecution. Nothing in this Section shall preclude the prosecution of
7 anyone under Health Code Section 29.2947, the laws of the State of California, or the laws of
8 the United States of America.

9 **SEC. 29.4628. COST RECOVERY.**

10 Any person who is assessed an administrative fine or whose permit is suspended or
11 revoked under this Article, regardless of whether any fine, suspension, or revocation is held in
12 abeyance by the Department, shall be liable to the City for its costs incurred in enforcing this
13 Article, including but not limited to the costs of inspection, investigation, administration, hearing
14 officer, administrative proceedings, court proceedings, monitoring, and attorneys' fees if, at the
15 conclusion of all proceedings, the fee or permit action is substantially sustained. Within ~~ten business~~
16 ~~days of the termination of the administrative hearing or other proceeding~~ 30 days of the final decision,
17 the Department ~~of Public Health~~ shall calculate the amount of its costs. The Director may reduce
18 the bill of costs for good cause.

19 (a) Criminal Violations. ~~Any Massage Business permit holder that violates the requirements~~
20 ~~of Section 29.10, 29.15, 29.25, or subsections (d), (e), (j), (k), or (l) of Section 29.31 Any permittee, as~~
21 ~~defined in Section 29.1, of a massage establishment or outcall massage service or any employer of a~~
22 ~~massage practitioner who violates Health Code Section 29.2 which requires a permit to engage in the~~
23 ~~practice of massage, Health Code Section 29.6 which requires presentation of an identification card to~~
24 ~~any City health inspector, Health Code Section 29.10 which requires practitioners not certified by the~~
25 ~~CAMTC pursuant to the California Business and Professions Code to obtain a permit to operate a~~

1 ~~massage establishment, solo practitioner massage establishment, or outcall massage service, Health~~
2 ~~Code Section 29.12(g) which prohibits the use of any room in which massage services are provided to~~
3 ~~be used as a sleeping room, Health Code Section 29.15 which requires every permit holder or employer~~
4 ~~to ensure that a massage practitioner, who is not certified by the CAMTC, has obtained a permit,~~
5 ~~Health Code Section 29.16 which requires a register of practitioners to be available for inspection,~~
6 ~~Health Code Section 29.17 which prohibits the employment of any individual under the age of 18,~~
7 ~~Health Code Section 29.18, which requires display of a permit and prohibits operation between the~~
8 ~~hours of 10 p.m. and 7 a.m., or any rule or regulation adopted pursuant to Section 29.25, shall be~~
9 guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000
10 or by imprisonment in the County Jail not to exceed six months, or by both. A person
11 convicted of violating ~~any listed this~~ Section shall be deemed guilty of a separate offense for
12 every day such violation shall continue.

13 (b) No Bar to Prosecution. Nothing in this Section 29.47 shall preclude the prosecution
14 of anyone under the laws of the State of California or of the United States of America.

15 **SEC. 29.4830. COOPERATIVE EFFORTS WITH LAW ENFORCEMENT.**

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

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

23 **SEC. 29.4931. UNDERTAKING FOR THE GENERAL WELFAREDISCLAIMER.**

24 In regulating massage businesses and massage services as provided in this Article,
25 the City is assuming an undertaking only to promote the general welfare. It is not assuming,

1 nor is it imposing on its officers and employees, an obligation for breach of which it is liable in
2 money damages to any person who claims that such breach proximately caused injury.

3 **SEC. 29.5032. SEVERABILITY.**

4 If any of the provisions of this Article 29 or the application thereof to any person or
5 circumstance is held invalid, the remainder of this Article, including the application of such part
6 or provisions to persons or circumstances other than those to which it is held invalid, shall not
7 be affected thereby and shall continue in full force and effect. To this end, the provisions of
8 this Article are severable.

9 **SEC. 29.51. NO CONFLICT WITH STATE OR FEDERAL LAW.**

10 *Nothing in this Article 29 shall be interpreted or applied so as to create any requirement,*
11 *power, or duty in conflict with any federal or State law.*

12
13 Section 2. Effective Date. This ordinance shall become effective 30 days after
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
16 of Supervisors overrides the Mayor's veto of the ordinance.

17
18 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
19 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
20 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
21 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
22 additions, and Board amendment deletions in accordance with the "Note" that appears under
23 the official title of the ordinance.

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By: 
4 SHERRI SOKELAND KAISER
Deputy City Attorney

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City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 141302

Date Passed: May 19, 2015

Ordinance amending the Health Code to comprehensively revise regulation of massage practitioners, massage establishments, massage outcall services, and sole practitioner massage establishments by, among other things: 1) eliminating the exemption for massage businesses that employ solely massage practitioners certified by the California Massage Therapy Council from the permitting and regulatory authority of the Department of Public Health; 2) increasing the number of instructional hours required for massage practitioner permits; 3) denying massage business permits to applicants who have been convicted of criminal acts related to human trafficking; 4) aligning massage practitioner attire requirements with State law; 5) incorporating State human trafficking information posting requirements into local law for enforcement purposes; 6) revising the timing and criteria for granting, denying, suspending, and revoking massage practitioner permits, massage establishment permits, sole practitioner massage establishment permits, and outcall massage service permits; 7) specifying massage practitioner permit application and annual license fees; 8) updating the application and annual license fee amounts for massage establishments, outcall massage services, and sole practitioner massage establishments to reflect the currently authorized amounts; and 9) grouping related requirements and making other changes to enhance clarity and promote compliance.

April 20, 2015 Land Use and Transportation Committee - CONTINUED

May 04, 2015 Land Use and Transportation Committee - RECOMMENDED

May 12, 2015 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

May 19, 2015 Board of Supervisors - FINALLY PASSED

Ayes: 10 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Mar, Tang, Wiener and Yee
Excused: 1 - Kim

File No. 141302

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 5/19/2015 by the Board of Supervisors of the City and County of San Francisco.



Angela Calvillo
Clerk of the Board



Mayor

5/28/15
Date Approved