

File No. 180757 Committee Item No. 6  
 Board Item No. 8

**COMMITTEE/BOARD OF SUPERVISORS**  
 AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date October 15, 2018

Board of Supervisors Meeting Date October 30, 2018

Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

**OTHER (Use back side if additional space is needed)**

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Referral SBC 080718   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Referral FYI 080718   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Hearing Notice 101518 |
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Completed by: Erica Major Date October 12, 2018  
 Completed by: Erica Major Date 10/15/18

1 [Health Code - Massage Practitioner and Business Permits]

2

3 **Ordinance amending the Health Code to comprehensively revise the regulation of**

4 **massage practitioners, massage establishments, massage outcall services, and sole**

5 **practitioner massage establishments by, among other things: 1) authorizing the**

6 **Director of Health (“Director”) to access local, state, and federal criminal history**

7 **information of permit applicants and permit holders; 2) eliminating temporary massage**

8 **practitioner permits; 3) clarifying the administrative process by which permit**

9 **applicants and permit holders may appeal a decision to deny, suspend, or revoke a**

10 **permit; 4) authorizing the Director to deny a massage establishment permit to an**

11 **applicant who has been convicted of any offense related to prostitution or solicitation**

12 **of prostitution, unless the conviction was vacated based on a showing that the**

13 **individual was a victim of human trafficking; 5) adding or revising massage**

14 **establishment operating standards relating to vermin, employee areas, locked doors,**

15 **residential use, and advertising; 6) prohibiting a massage business from operating a**

16 **massage school on the same premises as a massage establishment; 7) establishing a**

17 **massage establishment reinspection fee of \$191 per hour; 8) updating administrative**

18 **and permit penalties; 9) authorizing the imposition of a lien on a property that has**

19 **contributed to a violation of Article 29 of the Health Code (“Article 29”) to collect**

20 **unpaid administrative penalties, enforcement costs, fines, interest, and attorneys’ fees;**

21 **10) authorizing the City Attorney to institute civil proceedings for injunctive and**

22 **monetary relief for violations of Article 29; 11) declaring violations of select provisions**

23 **of Article 29 to be public nuisances; and 12) discontinuing the acceptance of**

24 **applications for massage practitioner permits effective January 1, 2019.**

25

1           NOTE:    **Unchanged Code text and uncodified text** are in plain Arial font.  
2                    **Additions to Codes** are in *single-underline italics Times New Roman font*.  
3                    **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
4                    **Board amendment additions** are in double-underlined Arial font.  
5                    **Board amendment deletions** are in ~~strikethrough Arial font~~.  
6                    **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
7                    subsections or parts of tables.

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

9                    Section 1. The Health Code is hereby amended by revising Sections 29.4, 29.5, 29.10,  
10                    29.11, 29.12, 29.17, 29.18, 29.25, 29.26, 29.27, 29.29, 29.31, 29.32, 29.33, 29.41, 29.42, and  
11                    29.45, deleting Sections 29.3, 29.13, 29.14, and existing Section 29.46, and adding new  
12                    Sections 29.6, 29.43, and 29.46, to read as follows:

13                    ~~**SEC. 29.3. COMPLAINT LINE.**~~

14                    ~~*The Director shall maintain a phone line for inquiries and complaints regarding massage*~~  
15                    ~~*businesses and practitioners*~~

16                    **SEC. 29.4. TRANSFER OF PERMIT; SALE OF MASSAGE BUSINESS.**

17                    (a) No permit issued under this Article 29 shall be transferable under any  
18                    circumstances, including but not limited to the sale of the ~~m~~Massage ~~b~~Business.

19                    (b) Upon the effective date of the sale of a Massage Business, the permit for the Massage  
20                    Business shall expire by operation of law. If a permittee sells a Massage Business, the permittee shall  
21                    promptly surrender the permit to the Director no later than the effective date of the sale. This  
22                    obligation is not dependent on the Director's requesting the surrender, but arises by operation of law  
23                    as a result of the sale of the Massage Business. If the permittee fails to surrender the permit to the  
24                    Director as required by this subsection (b), the Director may, after giving the permittee notice by mail  
25

1 or electronically of the proposed action and an opportunity to respond, establish that the permit has  
2 expired by operation of law and hence is not a valid permit, and that it must be surrendered.

3  
4 **SEC. 29.5. DEFINITIONS.**

5 For the purposes of this Article 29:

6 "Approved School" or "Approved Massage School" means a school that provides  
7 instruction and training in massage and meets the requirements of California Business and  
8 Professions Code Section 4601(a).

9 "CAMTC" means the California Massage Therapy Council as established in California  
10 Business and Professions Code Section 4602, or any successor agency.

11 "CAMTC Certified Practitioner" means an individual who administers massage for  
12 compensation and holds a valid and active certificate to practice massage issued by CAMTC  
13 pursuant to California Business and Professions Code Sections 4604 or 4604.2.

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

15 "Compensation" means a payment, loan, advance, donation, contribution, deposit,  
16 forgiveness of debt, or gift of money or anything of value.

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

19 "Department" means Department of Public Health.

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

22 "Inspector" means a Department employee responsible for conducting inspections on behalf of  
23 the Department.

1 "Massage" means any method of pressure on or friction against, or stroking, kneading,  
2 rubbing, tapping, pounding, vibrating, or stimulating the external soft pads of the body with the  
3 hands or with the aid of any apparatus or appliance.

4 "Massage Business" means Massage Establishment, Out-call Massage Service, and  
5 Sole Practitioner Massage Establishment, collectively.

6 "Massage Establishment" means a fixed place of business where more than one  
7 individual administers Massage for Compensation, excluding those locations where Massage  
8 is provided only on an outcall basis.

9 "Massage Practitioner" means any individual who administers Massage for  
10 Compensation pursuant to a permit issued by the Director under this Article 29.

11 *Notwithstanding the previous sentence, "Massage Practitioner" does not include CAMTC Certified*  
12 *Practitioner.*

13 "Outcall Massage Service" means any business other than a Massage Establishment  
14 or Sole Practitioner Massage Establishment that provides Massage for Compensation at a  
15 location designated by the client rather than on its premises.

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

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

22 "Sole Practitioner Massage Establishment" means a fixed place of business solely  
23 owned by a Massage Practitioner permit holder or CAMTC Certified Practitioner, which  
24 individual is the only person who provides Massage for Compensation. The business location  
25

1 may be shared by up to two to four Massage Practitioners or CAMTC Certified Practitioners in  
2 any combination, except as otherwise provided pursuant to Section 29.29(e).

3  
4 **SEC. 29.6. ACCESS TO SUMMARY CRIMINAL HISTORY INFORMATION.**

5 The Director is authorized to access local, state, and federal level summary criminal history  
6 information for licensing, permitting, and/or certification of Massage Businesses and Massage  
7 Practitioners, and for the suspension or revocation of licenses, permits, and/or certification of Massage  
8 Businesses and Massage Practitioners, and may not disseminate the information to a private entity.

9  
10 **SEC. 29.10. PERMIT REQUIRED FOR MASSAGE PRACTITIONER; EXEMPTIONS.**

11 (a) **Permit Required.** It shall be unlawful for any individual to administer Massage for  
12 Compensation without first obtaining a Massage Practitioner permit from the Director, unless  
13 that individual is exempt from the permit requirement under subsection (b).

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

16 (1) CAMTC Certified Practitioners. A CAMTC Certified Practitioner shall be  
17 ineligible for a Massage Practitioner Permit so long as he or she holds a CAMTC certification.

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

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

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

4 (c) Notwithstanding any provision in this Article 29, starting January 1, 2019, a person may  
5 not file and the Department may not accept an application for a Massage Practitioner Permit.

6 (1) The Department shall process and may grant in accordance with this Article 29 any  
7 applications for Massage Practitioner Permits filed before January 1, 2019, even if some or all of the  
8 processing occurs on or after January 1, 2019.

9 (2) This subsection (c) shall not affect the status of Massage Practitioner Permits issued  
10 before January 1, 2019, or those issued under subsection (c)(1) on or after January 1, 2019.

#### 11 12 **SEC. 29.11. APPLICATION FOR MASSAGE PRACTITIONER PERMIT.**

13 (a) **Permit Application.** Every applicant for a Massage Practitioner permit shall:

- 14 (1) File an application with the Director upon a form provided by the Director;
- 15 (2) Provide a complete set of fingerprints in the manner required by the  
16 Director for the purpose of undergoing a criminal background check; and
- 17 (3) Pay a non-refundable application fee as set forth in Section 29.40.

18 (b) **Applicant Information.** The application form shall require the applicant to provide,  
19 under penalty of perjury, the following information:

- 20 (1) The applicant's ~~name~~ name and residence address;
- 21 (2) A unique identifying number from at least one government-issued form of  
22 identification, such as a social security card, a state driver's license or identification card, or a  
23 passport;
- 24 (3) Written evidence that the applicant is at least 18 years of age;
- 25 (4) The applicant's height, weight, and color of hair and eyes;

1 (5) The applicant's work history for the five years immediately prior to the date  
2 of application; ~~and~~

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

7 (7) All felony or misdemeanor convictions; and

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

9 (c) **Minimum Educational Requirements.** An applicant for a Massage Practitioner  
10 permit shall provide, in a form acceptable to the Director, documentation showing that the  
11 applicant has completed not less than 500 hours of instruction in Massage and related  
12 subjects at an Approved Massage School.

13 (d) **Proficiency Test.** The Director shall administer a test to all applicants, in each  
14 applicant's own language, to confirm basic proficiency in Massage before issuing a permit.

15 (e) **Deadline for submission of supporting documentation.** After reviewing an applicant's  
16 application, the Director shall notify the applicant in writing if the application is incomplete. If the  
17 Director deems the application to be incomplete, the applicant shall supply the information or  
18 documentation that is required for the application to be deemed complete. The applicant shall have 60  
19 days from the date that the Director provides notification that the application is incomplete to provide  
20 all required information and/or documentation. If the applicant does not provide such information  
21 within 60 days, the application will be deemed abandoned and will not receive further consideration.

22  
23 **SEC. 29.12. ISSUANCE OF MASSAGE PRACTITIONER PERMIT.**

24 (a) **Time for Decision.** Within ~~60~~90 business days following receipt of a completed  
25 application for a Massage Practitioner permit, the Director shall either issue the permit or mail



1 a written statement of his or her reasons for denial thereof to the applicant. If the Director  
2 takes neither action, the permit shall be deemed issued.

3 ~~(b) *Hearing on Application.* The Director may, in his or her discretion, hold a hearing on any~~  
4 ~~pending application for a Massage Practitioner permit. The Director shall give the applicant at least~~  
5 ~~10 days' written notice of the time and place of the hearing.~~

6 **(eb) Grounds for Denial.** No Massage Practitioner permit shall be issued if the  
7 Director finds:

8 (1) The applicant is exempt from the permit requirement pursuant to Section  
9 29.10; or

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

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

17 (4) The applicant has been Convicted of any of the following offenses:

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

20 (B) Any misdemeanor sexual battery; or

21 (C) Any offense involving sexual misconduct with children, prostitution, or  
22 solicitation of an act of prostitution, unless the conviction was vacated based on a showing that  
23 the individual was arrested for or convicted of the offense while he or she was a victim of  
24 human trafficking; or

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

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

6 (6) The Director concludes that there is good cause to deny the permit in  
7 accordance with Section 26 of Article 1 of the Business and Tax Regulations Code; or

8 (7) The applicant has not fully complied with the provisions of this Article 29; or

9 (8) The applicant has not demonstrated eligibility for a permit under this Article 29.

10 (dc) **Discretionary Exception for Criminal Convictions.** The Director may issue a  
11 Massage Practitioner permit to any individual Convicted of one of the offenses listed in  
12 subsection (eb)(4) of this Section if the Director finds that the offense was not violent, the  
13 conviction occurred at least five years prior to the date of application, and the applicant has  
14 not been Convicted subsequently of a listed offense.

15 (ed) **Right to Director's Hearing.** If an application for a Massage Practitioner permit  
16 is denied, ~~and provided that the Director did not hold a hearing on the application as provided in~~  
17 ~~subsection (b) of this Section 29.12,~~ the applicant may appeal the denial within ~~30~~15 days of  
18 ~~receipt of the date listed on~~ the notice of denial by notifying the Director in writing and explaining  
19 in detail the ground or grounds for the appeal. The Director shall conduct a hearing to  
20 consider the appeal within ~~30~~60 days of receiving the notice of appeal and shall notify the  
21 applicant of the time and place of the hearing at least 10 days in advance of the hearing. The  
22 Director shall oversee the hearing, provide the applicant an opportunity to speak at the  
23 hearing, and issue a ruling within ~~30~~60 days of the conclusion of the hearing. The Director's  
24 ruling shall be the final decision of the Department. If the Director does not rule within ~~30~~60  
25 days of the conclusion of the hearing, the permit denial shall be deemed sustained.

1  
2           **~~SEC. 29.13. TEMPORARY MASSAGE PRACTITIONER PERMIT.~~**

3           ~~A practitioner of Massage who holds a valid permit, license, or certificate to practice Massage~~  
4 ~~issued by another jurisdiction and who has been practicing Massage in that jurisdiction may request a~~  
5 ~~temporary Massage Practitioner permit upon completion and submission of an application for a~~  
6 ~~Massage Practitioner permit, and payment of all fees for the permit. If requested, the Director shall~~  
7 ~~issue the temporary Massage Practitioner permit, which shall be valid for the period during which the~~  
8 ~~application is under review, but in no event for more than 60 business days. The Director may revoke~~  
9 ~~the temporary permit at any time if he or she finds that the applicant has failed to meet any of the~~  
10 ~~requirements of Section 29.12 or violated any provision of this Article 29 or any rules or regulations~~  
11 ~~promulgated by the Director related to the practice of Massage.~~

12  
13           **~~SEC. 29.14. EDUCATIONAL MATERIALS.~~**

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

19  
20           **SEC. 29.17. MASSAGE PRACTITIONER CONDUCT REQUIREMENTS.**

21           (a) **Required Attire.** Massage Practitioners shall remain fully clothed while  
22 administering massage or otherwise present in a part of the Massage Establishment to which the  
23 public has access (e.g., massage rooms, reception areas, publicly accessible restrooms) visible to clients  
24 on business premises, including premises designated by the client through an Outcall Massage  
25 Service. The Massage Practitioner's attire shall not include: (1) attire that is transparent, see-

1 through, or that substantially exposes the Practitioner's undergarments; (2) swim attire, unless  
2 the Practitioner is providing a water-based massage modality that has been approved by  
3 CAMTC; or (3) attire that exposes the individual's breasts, buttocks, or genitals.

4 (b) **Lewd Conduct Prohibited.** Massage Practitioners shall not engage in lewd  
5 conduct on business premises, including locations designated by the client through an Outcall  
6 Massage Service. Lewd acts include, but are not limited to: the performance of acts or  
7 simulated acts of sexual intercourse, masturbation, ~~sodomy~~, bestiality, copulation (oral, anal or  
8 vaginal), or flagellation; the actual or simulated caressing or fondling by one adult human  
9 being of the anus or genitals of another adult human being; the actual or simulated displaying  
10 of the pubic hair, anus, vagina, penis, vulva, buttocks, areola, or any other external genitalia of  
11 the human body.

## 12 13 **SEC. 29.18. SUSPENSION OR REVOCATION OF MESSAGE PRACTITIONER**

### 14 **PERMIT.**

15 (a) **Grounds for Suspension or Revocation.** The Director may revoke or suspend  
16 any Massage Practitioner permit ~~after a hearing~~ if the Director finds:

- 17 (1) Facts sufficient to support denial of a Massage Practitioner permit on any  
18 ground set forth in Section 29.12; or
- 19 (2) The Massage Practitioner has violated the conduct requirements in Section  
20 29.17; or
- 21 (3) The Director finds that there is good cause to suspend or revoke the permit  
22 in accordance with Sections 24 or 26 of Article 1 of the Business and Tax Regulations Code; or
- 23 (4) The Massage Practitioner has violated any of the provisions of this Article  
24 29 or a rule or regulation adopted by the Director related to the practice of Massage; or

1                    (5) The Massage Practitioner has not paid the Massage Practitioner Fee as required by  
2 Section 29.40 of this Article 11, and 30 days have elapsed since notice of delinquency.

3                    ~~(b) Hearing. A Massage Practitioner who has been cited by the Department for a violation of~~  
4 ~~any provision of this Article 29 shall be scheduled to appear at hearing before the Director. The~~  
5 ~~Director shall provide the Massage Practitioner at least 10 days' written notice of the time, place, and~~  
6 ~~grounds for the hearing. If requested by the Massage Practitioner, the Director shall make available all~~  
7 ~~documentary evidence against him or her within five days of the request. If the Director does not~~  
8 ~~provide the requested documentary evidence within five days, the Massage Practitioner may request,~~  
9 ~~and the Director shall grant, a continuance of the hearing date. At the hearing, the Massage~~  
10 ~~Practitioner shall be provided an opportunity to refute all evidence against him or her. The Director~~  
11 ~~shall oversee the hearing and issue a ruling within 30 days of the conclusion of the hearing. If the~~  
12 ~~Director fails to issue a ruling within this time period, the permit shall not be suspended or revoked.~~  
13 ~~The Director's ruling shall be the final decision of the Department.~~

14                    ~~(c) Summary Suspension. The Director may suspend summarily any Massage Practitioner~~  
15 ~~permit issued under this Article 29 pending a noticed suspension or revocation hearing when, in the~~  
16 ~~opinion of the Director, the public health or safety requires such summary suspension. The Director~~  
17 ~~shall provide written notice of such summary suspension to the Massage Practitioner by hand delivery~~  
18 ~~or registered mail.~~

19                    (b) The Director may not suspend or revoke a Massage Practitioner permit under this Article  
20 29 until the Director has issued a Notice of Violation and provided the Massage Practitioner an  
21 opportunity to be heard and respond as provided in Section 29.43 of this Article 29.

22                    (c) Notwithstanding subsection (b) of this Section 29.18, the Director may suspend summarily  
23 any Massage Practitioner permit issued under this Article 29 when, in the judgment of the Director, an  
24 extreme public health hazard requires such summary suspension. The Director shall provide written  
25 notice of such summary suspension to the permit holder by hand delivery, registered mail, or electronic

1 mail. No more than three days after written notice of such summary suspension is given, the Director  
2 shall issue a Notice of Violation identifying the alleged acts or failures to act that constitute the basis  
3 for the summary suspension, and provide the Massage Practitioner an opportunity to be heard and  
4 respond as provided in Section 29.43 as to why the summary suspension should end. However, the time  
5 for hearing and decision shall be accelerated as follows: Upon a timely request for a hearing, the  
6 Director shall set any requested hearing within seven days, unless time is extended by mutual  
7 agreement of the affected parties; and the Director, or a designated hearing officer who shall have the  
8 same authority as the Director to hear and decide the case, and make any orders consistent with this  
9 Article 29, shall issue a decision on the summary suspension within three days after hearing.

10 (d) If the Permittee appeals a decision by the Director or hearing officer upholding a summary  
11 suspension to the Board of Appeals, the summary suspension shall remain in effect until a final decision  
12 is issued by the Board of Appeals. Where a permit is revoked after a summary suspension, the  
13 revocation shall be effective immediately and, if the Permittee appeals to the Board of Appeals, shall  
14 remain in effect until a final decision is issued by the Board of Appeals.

15  
16 **SEC. 29.25. MASSAGE BUSINESS PERMIT REQUIRED; EXEMPTIONS.**

17 (a) **Permit Required.** It shall be unlawful for any Owner of a Massage Establishment,  
18 Sole Practitioner Massage Establishment, or Outcall Massage Service to operate that  
19 Massage Business at any location in the City 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  
21 business is a Massage Business, the Director may hold a hearing to determine whether a  
22 permit under this Section 29.25 is required.

23 (b) **Exemptions.** The following businesses may provide Massage services without  
24 obtaining a Massage Business permit:  
25

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

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

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

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

1           **SEC. 29.26. APPLICATION FOR MASSAGE ESTABLISHMENT, SOLE**  
2 **PRACTITIONER MASSAGE ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE**  
3 **PERMIT.**

4           **(a) Application Requirements.** To apply for a Massage Establishment, Sole  
5 Practitioner Massage Establishment, or Outcall Massage Service permit, the Owner shall:

6                   (1) File an application with the Director upon a form provided by the Director;  
7                   (2) Provide a complete set of fingerprints in the manner required by the  
8 Director from any person with an ownership interest in the Massage Business for the purpose  
9 of ~~a~~undergoing a criminal background check; ~~and~~

10                   (3) Pay a non-refundable application fee, as set forth in Section 29.41; and  
11                   (4) Permit inspection of any Massage facilities proposed to be operated under  
12 the permit by all relevant City departments, *including but not limited to the Department of Building*  
13 *Inspection, the Planning Department, and the Fire Department.*

14           **(b) Applicant Information.** The application form shall require the applicant to provide,  
15 under penalty of perjury, the following information:

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

18                   (2) A description of all services to be rendered by the Massage Business;

19                   (3) The address of any facilities proposed to be operated under a Massage  
20 Establishment or Sole Practitioner Massage Establishment permit, and a copy of the rental  
21 agreement or lease showing the names of the landlord and all of the tenants or lessees who  
22 are parties to the rental agreement; or, if the Owner owns the premises, a copy of the deed  
23 and a disclosure of any other person or entity with a shared ownership interest in the  
24 premises;  
25



1 (4) The number of individuals to be employed by the Massage Business, and,  
2 except in the case of a Sole Practitioner Massage Establishment, the names and permit or  
3 certificate numbers of any Massage Practitioners or CAMTC Certified Practitioners who shall  
4 operate under that permit;

5 (5) All permits, certificates, or licenses related to the practice of Massage or the  
6 operation of a Massage Establishment or Massage service, currently or formerly held by an  
7 Owner, issued in San Francisco or elsewhere, including any discipline imposed by the issuing  
8 authority and a statement whether the permit holder is currently the subject of a disciplinary  
9 process; *and*

10 (6) All felony or misdemeanor convictions for each person with an ownership  
11 interest in the Massage Business; *and*

12 (7) A floor plan of the proposed Massage Establishment, indicating the location of all  
13 Massage treatment rooms, Massage tables, Massage chairs, and employee areas;

14 (8) A certificate of insurance against liability for workers compensation or proof of  
15 self-insurance in accordance with the provisions of the California Labor Code; and

16 (79) Any additional information as required by the Director.

17 (c) **Organizational Owners.** If the Owner of the Massage Establishment or Outcall  
18 Massage Service is or includes a corporation, the name of the corporation shall be set forth  
19 exactly as shown in its articles of incorporation together with the names and residence  
20 addresses of each of the officers, directors, and each stockholder holding more than 10%  
21 *percent* of the stock of the corporation. If the Owner is or includes a partnership, the  
22 application shall set forth the name and the residence address of each of the partners,  
23 including limited partners. If one or more of the partners is a corporation, the provisions of this  
24 Subsubsection 29.26(c) pertaining to corporate applicants applies. The applicant shall provide  
25 the information required in subsections (a)(2), (b)(1), (b)(5), and (b)(6) of this Section 29.26 for

1 each officer, director, and stockholder holding more than 1-0% percent of the stock of the  
2 corporation, or for each partner, including limited partners.

3 (d) **Proof of Massage Practitioner Permit or CAMTC Certification for Sole**  
4 **Practitioners.** In addition to the information required under subsection (b) of this Section  
5 29.26, an applicant for a Sole Practitioner Massage Establishment permit shall provide proof  
6 that he or she holds either a current, valid Massage Practitioner permit or a CAMTC certificate.  
7 A Massage Practitioner may not hold both a Massage Practitioner permit and a CAMTC certificate.

8 (e) **Massage Establishment Compliance with Planning Code Notice**  
9 **Requirement.** An Applicant for a Massage Establishment permit shall also submit proof of  
10 compliance with any applicable Planning Code requirements regarding notice and posting of  
11 the proposed Massage Establishment.

12 (f) **Deadline for submission of supporting documentation.** After reviewing a Massage  
13 Business permit application, the Director shall notify the applicant in writing that the application is  
14 complete and accepted for further review, or incomplete. If the Director deems the application to be  
15 incomplete, the applicant shall supply the information or documentation that is required for the  
16 application to be deemed complete. The applicant shall have 60 days from the date that the Director  
17 provides notification that the application is incomplete to provide all required information and/or  
18 documentation. If the applicant does not provide such information within 60 days, the application will  
19 be deemed abandoned and will not receive further consideration.

20  
21 **SEC. 29.27. REQUIREMENTS FOR MASSAGE FACILITIES.**

22 All proposed massage facilities must comply with the following requirements, and with  
23 any rules and regulations adopted by the Director pursuant to Section 29.2:

24 (a) **Toilet Rooms and Other Rooms.** Toilet rooms shall be provided for clients in  
25 convenient locations.

1 (1) Construction of rooms used for toilets, laundry, and mop sinks, as well as  
2 rooms used for tubs, wet tables, steam baths, saunas, and showers stalls, shall be made of  
3 waterproof, ~~with hard~~ nonabsorbent materials that are easily cleaned and shall be installed in  
4 accordance with the San Francisco Building Code.

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

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

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

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

12 (1) Handwashing facilities must provide liquid hand soap in a pump or a wall-  
13 mounted dispenser and sanitary wall mounted disposable paper towels.

14 (2) Handwashing facilities shall be readily accessible to massage practitioners.

15 (c) **Light and Ventilation.** All portions of the Establishment shall be provided with  
16 adequate light by means of windows, skylights, or with an approved artificial light. Adequate  
17 ventilation shall be provided by means of windows or a mechanical operating ventilating  
18 system.

19 (1) Toilet, dressing, and massage rooms shall be provided with at least 108 lux  
20 (10 foot candles) of light.

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

23  
24 **SEC. 29.29. ISSUANCE OF MASSAGE ESTABLISHMENT, SOLE PRACTITIONER**  
25 **MASSAGE ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE PERMIT.**

1 (a) Within ~~60~~90 business days following receipt of a completed application for a  
2 Massage Business permit, or, for applications subject to referral under Section 29.28, within  
3 30 days of receiving all written findings, whichever is later, the Director shall either issue the  
4 permit or mail a written statement of his or her reasons for denial thereof to the applicant. If  
5 the Director takes neither action, the permit shall be deemed issued.

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

10 (eb) No Massage Establishment, Sole Practitioner Massage Establishment, or Outcall  
11 Massage Service permit shall be issued if the Director finds:

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

14 (2) The facilities as proposed by the applicant would not comply with all  
15 applicable laws including, but not limited to, the facilities requirements set forth in Section  
16 29.27, the City Building, Planning, Housing, and Fire Codes, or any rule or regulation related  
17 to Massage facilities adopted by the Director pursuant to this Article 29; or

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

20 (4) ~~Within five years immediately p~~Prior to the date of application, the applicant  
21 has had any license, certificate, or permit related to the practice of Massage or operation of a  
22 Massage Establishment or Massage service revoked; or

23 (5) The applicant has been Convicted of any of the following offenses:

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

1 (B) Any misdemeanor sexual battery; or

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

3 (D) Any offense involving Pimping or pandering; or

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

5 (F) Any offense requiring registration pursuant to Section 290 of the  
6 California Penal Code or, for offenses committed outside California, any offense requiring  
7 registration in California pursuant to Penal Code Section 290.005; or

8 (G) Any offense related to prostitution or solicitation of prostitution, unless the  
9 conviction was vacated based on a showing that the individual was arrested for or convicted  
10 of the offense while he or she was a victim of human trafficking; or

11 (6) The Director revoked permission to operate a Massage Business at the  
12 same location within the prior ~~12~~36 months; or

13 (7) The Director concludes there is good cause to deny the permit in  
14 accordance with Section 26 of Article 1 of the Business and Tax Regulations Code~~Section 26~~; or

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

18 (9) The applicant has not fully complied with the provisions of this Article 29; or

19 (190) The applicant has not demonstrated eligibility for a permit under this Article 29.

20 **(dc) Discretionary Exception for Criminal Convictions.** The Director may issue a  
21 permit otherwise authorized under this Section to any Owner Convicted of one of the offenses  
22 listed in subsection (eb)(5) of this Section 29.29 if the Director finds that the offense was not  
23 violent, the conviction occurred at least five years prior to the date of application, and the  
24 applicant has not been convicted subsequently of any of the listed offenses.

1           ~~(e) Sole Practitioner Massage Establishments. Notwithstanding the provisions of Section 29.5,~~  
2 ~~the Director may issue a Sole Practitioner Massage Establishment permit authorizing more than four~~  
3 ~~Massage Practitioners or CAMTC Certified Practitioners to operate out of the same location if the~~  
4 ~~Director finds good cause exists and the operation of the Sole Practitioner Massage Establishment will~~  
5 ~~not have a negative impact on the neighborhood.~~

6           (f~~d~~) **Right to Director's Hearing.** If an application for a Massage Establishment, Sole  
7 Practitioner Massage Establishment, or an Outcall Massage Service permit is denied, ~~and~~  
8 ~~provided that the Director did not hold a hearing on the application as provided in subsection (b) of~~  
9 ~~this Section,~~ the applicant may appeal the denial within 3015 days of ~~receipt of the date listed on~~  
10 the notice of denial by notifying the Director in writing and explaining the ground or grounds  
11 for the appeal. Within 3060 days of receipt of the notice of appeal, the Director shall conduct a  
12 hearing to consider the appeal. At least 10 days prior to the hearing, the Director shall notify  
13 the applicant of the time and place of the hearing. The Director shall oversee the hearing,  
14 provide the applicant an opportunity to speak at the hearing, and issue a ruling within 3060  
15 days of the conclusion of the hearing. If the Director fails to rule within this time period, the  
16 permit denial shall be deemed sustained. The Director's ruling shall be the final decision of the  
17 Department.

18  
19           **SEC. 29.31. OPERATING REQUIREMENTS.**

20           Massage Establishments, Sole Practitioner Massage Establishments, and Outcall  
21 Massage Services must comply with the following operating requirements to the extent  
22 applicable:

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

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

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

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

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

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

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

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

13 (8) The facility shall be free of vermin, including but not limited to cockroaches, mice,  
14 rats, and other pests that carry disease.

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

17 (c) **Employee Area.** A room, enclosure, or designated area that is separate from the  
18 toilet, massage room(s), steam room, or other common areas shared by the clients shall be  
19 made available to employees at all times. The employee area(s) shall be furnished with individual  
20 lockers and adequate storage space for employees' personal belongings. Members of the public may  
21 not have access to the employee area.

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

24 (e) **Register of Practitioners.** Every Massage Establishment or Outcall Massage  
25 Service that hires or contracts with individuals to provide Massage services shall ensure at all

1 times that each such individual holds a valid and current Massage Practitioner permit or  
2 CAMTC certificate. The Massage Establishment or Outcall Massage Service shall maintain a  
3 register of practitioners that includes each practitioner's permit or CAMTC certificate number,  
4 which shall be available for inspection by the Department at all times.

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

9 (g) ~~Doors to Remain Unlocked~~**Locks.** ~~Massage Establishment interior~~Doors that permit entry  
10 into any treatment room may not be equipped with locks or any device designed to prevent, impede, or  
11 delay entry into a room. Massage Establishmentand exterior doors may be equipped with locks, but  
12 shall remain unlocked while the Massage Establishment is open. Exterior doors may remain  
13 locked while the Massage Establishment is open only if the Massage Establishment is owned by one  
14 individual with no more than one employee or independent contractor. there is no more than one  
15 employee or independent contractor on the premises of the Establishment, exclusive of the  
16 Establishment owner.

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

24 (i) **Human Trafficking Information Notices.** Massage Establishments must comply  
25 with the requirements of California Civil Code Section 52.6. The required notices of human



1 trafficking information and telephone hotline numbers shall be posted in English, Spanish,  
2 Chinese~~Cantonese~~, Vietnamese, and other appropriate languages as determined by the  
3 Department.

4 (j) **Residential Use.** Massage facility premises shall not be used as a sleeping room  
5 or for any other residential purpose. A Massage Establishment shall be presumed to be used for  
6 residential purposes if any of the following items are maintained on the premises:

7 (1) Beds or mattresses, other than professional Massage tables;

8 (2) Bedding, such as pillows, blankets, and sheets, other than those used for  
9 professional Massage tables;

10 (3) Sleepwear, including but not limited to, pajamas, nightgowns, and lingerie;

11 (4) Groceries that require cooking, such as raw meats, poultry, fish, and grains; or

12 (5) Clothing that exceeds one change of clothing for each employee or independent  
13 contractor who is present on the premises.

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

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

21 (m) **Hours of Operation.** No Massage Business shall operate or provide Massage  
22 services, and no customer or person not employed or contracted by the Massage Business may be on  
23 the premises of a Massage Establishment, during the hours between 10:00 p.m. and 7:00 a.m.

24 (n) **Advertising.** No Massage Business shall publish or distribute, or cause to be published or  
25 distributed, including on the internet, any advertising for services that would violate this Article 29.

1           (o) Operation of Massage School Prohibited. No Massage Business shall operate a Massage  
2 school or otherwise provide instruction in Massage on the premises of a Massage Establishment.

3  
4           **SEC. 29.32. INSPECTION.**

5           Any member of the Department may inspect any Massage Establishment or Sole  
6 Practitioner Massage Establishment to determine whether the Establishment is operating in  
7 compliance with the provisions of State law or this Article 29, or for the purpose of providing  
8 educational materials to employees of the Establishment in culturally and linguistically  
9 appropriate languages regarding the City and County of San Francisco Sanctuary City policy,  
10 employee rights, and information on a variety of resources, including linkage to health care  
11 services, victim services, and emergency numbers and hotlines to call for information and  
12 assistance. *The Director shall adopt regulations governing the use of double doors or other structural*  
13 *devices that interfere with reasonable inspections and do not have legitimate safety or security*  
14 *purposes.* Nothing in this Section shall be construed to limit or restrict the lawful authority of a  
15 police officer or other City employee to enter premises licensed under this Article 29.

16  
17           **SEC. 29.33. SUSPENSION OR REVOCATION OF MASSAGE ESTABLISHMENT,**  
18 **SOLE PRACTITIONER MASSAGE ESTABLISHMENT, OR OUTCALL MASSAGE**  
19 **SERVICE PERMIT.**

20           (a) **Grounds for Suspension or Revocation.** The Director may revoke or suspend  
21 any Massage Establishment, Sole Practitioner Massage Establishment, or Outcall Massage  
22 Service permit, after a hearing, if the Director finds:

23                   (1) Facts sufficient to support the denial of such permit on any ground set forth  
24 in Section 29.29; or

1           (2) The permittee or the permittee's agent, employee, or independent contractor has  
2 refused to permit a lawful inspection of its business premises or its operations, or has interfered  
3 with City staff in the performance of an inspection such as by threatening them, touching them, or  
4 intentionally delaying their entry to the premises of the Massage Business; or

5           (3) The permittee or the permittee's agent, employee, or independent contractor has  
6 engaged in any conduct in connection with the operation of the business that violates the  
7 operating requirements set forth in ~~Section 29.3~~ this Article 29, any rules or regulations related  
8 to Massage Business operations, or any State or local laws relating to the practice of Massage or  
9 the operation of a Massage Business; or

10           ~~(4) Any employee or independent contractor of the permittee has engaged in conduct~~  
11 ~~that violates any state or local laws at permittee's place of business, and the permittee had or, in the~~  
12 ~~exercise of due diligence, should have had knowledge of the prohibited conduct; or~~

13           ~~(5)~~ (4) The Director determines that such Massage Business is being managed,  
14 conducted, or maintained without regard for public health or the health of clients or  
15 employees, or without due regard for proper sanitation and hygiene; or

16           ~~(6)~~ (5) The Director finds good cause to suspend or revoke the permit in  
17 accordance with Sections 24 or 26 of Article 1 of the Business and Tax Regulations Code  
18 Sections 24 and 26.

19           ~~(b) Hearing. A permit holder cited for a violation of any provision of Article 29 or the rules~~  
20 ~~and regulations promulgated by the Director under Section 29.2 shall be scheduled to appear at a~~  
21 ~~hearing held by the Director. The Director shall provide the permittee at least 10 days' written notice~~  
22 ~~of the time, place, and grounds for the hearing. If requested by permittee, the Director shall make~~  
23 ~~available all documentary evidence against permittee within five days of the request. If the Director~~  
24 ~~does not provide the requested documentary evidence within five days, the permit holder may request,~~  
25 ~~and the Director shall grant, a continuance of the hearing date. At the hearing, the permittee shall be~~

1 ~~provided an opportunity to refute all evidence against him or her. The Director shall oversee the~~  
2 ~~hearing and issue a ruling within 30 days of the conclusion of the hearing. If the Director fails to issue~~  
3 ~~a ruling in this time period, no suspension or revocation shall be imposed. The Director's ruling shall~~  
4 ~~be the final decision of the Department.~~

5 ~~(e) Summary Suspension. The Director may suspend summarily any Massage Establishment,~~  
6 ~~Sole Practitioner Massage Establishment, or Outcall Massage Service permit issued under this Article~~  
7 ~~pending a noticed revocation or suspension hearing when, in the opinion of the Director, the public~~  
8 ~~health or safety requires such summary suspension. The Director shall provide written notice of such~~  
9 ~~summary suspension to the permit holder by hand delivery or registered mail.~~

10 ~~(b) The Director may not suspend or revoke a Massage Business permit under this Article 29~~  
11 ~~until the Director has issued a Notice of Violation and provided the Massage Business and the owner of~~  
12 ~~the property upon which the Massage Business is located an opportunity to be heard and respond as~~  
13 ~~provided in Section 29.43 of this Article 29.~~

14 ~~(c) Notwithstanding subsection (b) of this section 29.33, the Director may suspend summarily~~  
15 ~~any Massage Business permit issued under this Article 29 when, in the judgment of the Director, an~~  
16 ~~extreme public health hazard requires such summary suspension. The Director shall provide written~~  
17 ~~notice of such summary suspension to the permit holder by hand delivery, registered mail, or electronic~~  
18 ~~mail. No more than three days after written notice of such summary suspension is given, the Director~~  
19 ~~shall issue a Notice of Violation identifying the alleged acts or failures to act that constitute the basis~~  
20 ~~for the summary suspension, and provide the Massage Business an opportunity to be heard and~~  
21 ~~respond as provided in Section 29.43 as to why the summary suspension should end. However, the time~~  
22 ~~for hearing and decision shall be accelerated as follows: Upon a timely request for a hearing, the~~  
23 ~~Director shall set any requested hearing within seven days, unless time is extended by mutual~~  
24 ~~agreement of the affected parties; and the Director, or a designated hearing officer who shall have the~~  
25

1 same authority as the Director to hear and decide the case, and make any orders consistent with this  
2 Article 29, shall issue a decision on the summary suspension within three days after hearing.

3 (d) If the Permittee appeals a decision by the Director or hearing officer upholding a summary  
4 suspension to the Board of Appeals, the summary suspension shall remain in effect until a final decision  
5 is issued by the Board of Appeals. Where a permit is revoked after a summary suspension, the  
6 revocation shall be effective immediately and, if the Permittee appeals to the Board of Appeals, shall  
7 remain in effect until a final decision is issued by the Board of Appeals.

8  
9 **SEC. 29.41. MASSAGE ESTABLISHMENT, SOLE PRACTITIONER MASSAGE**  
10 **ESTABLISHMENT, AND OUTCALL MASSAGE SERVICE FEES.; REINSPECTION FEES.**

11 (a) **Massage Establishments.** The application fee for a Massage Establishment  
12 permit shall be \$681. The annual license fee for a Massage Establishment shall be \$1,214.  
13 The fee shall be due annually on March 31 of each year, pursuant to Section 76.1, Article 2 of  
14 the Business and Tax Regulations Code.

15 (b) **Sole Practitioner Massage Establishments.** The application fee for a Sole  
16 Practitioner Massage Establishment permit shall be \$497. The annual license fee for a Sole  
17 Practitioner Massage Establishment shall be \$599. The fee shall be due annually on March 31  
18 of each year, pursuant to Section 76.1, Article 2 of the Business and Tax Regulations Code.

19 (c) **Outcall Massage Services.** The application fee for an Outcall Massage Service  
20 permit shall be \$351. The annual license fee for an Outcall Massage Service shall be \$306.  
21 The fee shall be due annually on March 31 of each year, pursuant to Section 76.1, Article 2 of  
22 the Business and Tax Regulations Code.

23 (d) **Exception.** A Massage Practitioner or CAMTC Certified Practitioner holding a  
24 Sole Practitioner Massage Establishment permit shall not be required to pay any additional  
25 application or annual license fee for an Outcall Massage Service permit.

1           (e) Reinspection fees. If an inspection discloses a violation of any provision of this Code or of  
2 any State law for which the Department is responsible for enforcement, the Department shall determine  
3 a period of time that is reasonable to correct the violation and shall thereafter reinspect the property to  
4 verify such correction. The term "reinspection" shall refer to any inspection by the Department to verify  
5 whether an owner has corrected a violation. The Massage Business shall pay a fee in the amount of  
6 \$191 for the first hour or any fraction thereof for each reinspection by an Inspector, to compensate the  
7 Department for its costs in performing the reinspection. Reinspections that require more than one hour  
8 to complete shall be subject to an additional fee at the rate of \$96 for each half-hour or part thereof  
9 beyond the first 60 minutes. If more than one reinspection is necessary to secure correction of a  
10 violation, the Massage Business shall pay a fee in the amount set forth herein for each reinspection. In  
11 the event that the Massage Business fails to pay any reinspection fee due under this Section within 30  
12 days of the due date, the Massage Business must pay a late payment penalty of \$40 and the City may  
13 collect the reinspection fee through the placement of a lien in the amount of the fee and any late  
14 payment penalty owed or delinquent, plus interest of 1.5% per month, against the real property  
15 pursuant to the procedures set forth in Chapter 10, Article XX of the Administrative Code (beginning  
16 with Section 10.230).

17  
18           **SEC. 29.42. ADJUSTMENT OF FEES.**

19           Beginning with fiscal year 2008-2009, fees set forth in this Article 29 may be adjusted  
20 each year without further action by the Board of Supervisors. Not later than April 1, the  
21 Director shall report to the Controller the revenues generated by the fees for the prior fiscal  
22 year and the prior fiscal year's costs of operation, as well as any other information that the  
23 Controller determines appropriate to the performance of the duties set forth in this Section  
24 29.42. Not later than May 15, the Controller shall determine whether the current fees have  
25 produced or are projected to produce revenues sufficient to support the costs of providing the

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

7  
8 **SEC. 29.43. NOTICE OF VIOLATION; HEARING AND APPEAL.**

9 (a) If the Director determines that a Massage Practitioner or Massage Business is operating in  
10 violation of this Article 29 (which is deemed in the entirety of this Section 29.43 to include a violation  
11 of a permit condition and/or a violation of the rules and regulations adopted pursuant to this Article),  
12 the Director may issue a Notice of Violation to the Massage Practitioner, the Massage Business, the  
13 owner of real property where the violation occurred, and/or any other Persons the Director deems  
14 responsible for causing the violation. The issuance of the Notice of Violation may be by hand delivery,  
15 registered mail, or electronic mail.

16 (b) The Notice of Violation shall include the following information:

17 (1) That the Director has made a determination that the Massage Practitioner or  
18 Massage Business has operated in violation of this Article 29;

19 (2) The alleged acts or failures to act that constitute the basis for the Director's  
20 determination;

21 (3) That the Director intends to take enforcement action against the Massage  
22 Practitioner, Massage Business, owner of real property, and/or any other Person deemed responsible  
23 for causing the violation(s), and the nature of that action, including the administrative penalty and  
24 enforcement costs to be imposed, and/or the suspension or revocation of the Massage Practitioner  
25 and/or Massage Establishment permit(s);

1           (4) That the Massage Practitioner, Massage Business, owner of real property, and/or  
2 any other Person deemed responsible for causing the violation(s) has the right to request a hearing  
3 before the Director within 15 days after the Notice of Violation is issued, which request must be made  
4 in writing.

5           (c) If no request for a hearing is filed with the Director within the appropriate period, the right  
6 to request a hearing shall be deemed waived, and the Director's determination shall become final and  
7 effective 15 days after the Notice of Violation was mailed. The Director shall issue an order imposing  
8 the enforcement action, and shall send the order to the Persons served with the Notice of Violation by  
9 hand delivery, registered mail, or electronic mail. In subsequent civil proceedings, such violations  
10 shall be deemed not to have been corrected. Where no hearing is timely requested, an order suspending  
11 or revoking a permit is final. The failure of the Person on whom the Notice of Violation is served to  
12 request a hearing shall constitute a failure to exhaust administrative remedies and shall preclude the  
13 Person from obtaining judicial review of the validity of the enforcement action.

14           (d) Upon a timely request for a hearing, the Director shall, within 15 days of the request,  
15 notify the requester of the date, time, and place of the hearing. Such notification may be made by hand  
16 delivery, registered mail, or electronic mail. The Director shall make available to the requester the  
17 photographs and other recorded evidence obtained in support of the Notice of Violation as well as a  
18 copy of the report prepared by the Director's designee, if any, to support the Notice of Violation. Such  
19 hearing shall be held no later than 60 days after the Director receives the request, unless time is  
20 extended by mutual agreement of the requester and the Director.

21           (e) The Director shall conduct the hearing, or a hearing officer may be designated, who shall  
22 have the same authority as the Director to hear and decide the case and make any orders consistent  
23 with this Article 29. The Massage Practitioner, Massage Business, owner of real property, or other  
24 Person(s) deemed responsible for causing the violation(s) may present evidence for consideration,  
25 subject to any rules adopted by the Director or hearing officer for the orderly conduct of the hearing.



1 Within 60 days of the conclusion of the hearing, the Director or hearing officer shall render a decision  
2 in the form of a written order, which the Director shall promptly serve on the Massage Practitioner,  
3 Massage Business, owner of real property, or any other Persons charged in the Notice of Violation.  
4 Service of the written order may be made by hand delivery, registered mail, or electronic mail. The  
5 order shall state whether the Notice of Violation has been upheld (in whole or in part), and the  
6 enforcement action taken against each party.

7 (f) If the order directs the Massage Practitioner, Massage Business, owner of real property, or  
8 other person to pay an administrative penalty and/or enforcement costs, such amount shall be paid  
9 within fifteen days from the mailing of the order; the order shall inform the recipient of such deadline  
10 for payment.

11 (g) If the order suspends or revokes a permit, the permittee must cease operations within 24  
12 hours of the suspension or revocation order being final.

13 (h) If the order suspends or revokes a permit, or imposes additional permit conditions, it may  
14 be appealed to the Board of Appeals in the manner prescribed in Article 1 of the Business and Tax  
15 Regulations Code; the order shall inform the recipient of such right to appeal.

16  
17 **SEC. 29.45. ADMINISTRATIVE PENALTIES.**

18 (a) Any person who violates any provision of this Article 29 or any rule or regulation  
19 adopted pursuant to Section 29.2 may, after being provided notice and an opportunity to be  
20 heard, be subject to the following monetary and permit penalties. The Director may impose  
21 administrative fines and/or permit penalties that exceed those listed in this Section 29.45 where the  
22 Director finds that such higher fines and/or penalties are necessary or appropriate to protect and  
23 promote the health and well-being of a Massage Business' employees, customers, and/or neighbors.

24 (1) **Massage Business Operating Without a Massage Business Permit.**  
25

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

3 (B) Permit penalty: Business location and Owner of Massage Business  
4 ineligible for a Massage Business permit for 180 days.

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

6 **(2) Massage Business Employing Any Person Under 18 Years of Age.**

7 (A) Administrative fine: None.

8 (B) Permit penalty: Mandatory ~~60-120 day suspension~~ revocation of  
9 Massage Business permit.

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

12 **(3) Solicitation Citations, Charges, or Convictions, as Defined by California**  
13 **Penal Code Section 647(a) or (b) and/or San Francisco Police Code Section 225, for**  
14 **Anyone Working at 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 Massage Establishment permit at any location for a period of two years.

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

23 (A) Administrative fine: None.

24 (B) Permit penalty: Revocation; permittee ineligible for a subsequent  
25 Massage Establishment permit at any location.

1 (C) Repeat violations: Same penalty as (a)(4)(B).

2 (5) **Massage Establishment or Outcall Massage Service Knowingly**  
3 **Employing Individual Without Massage Practitioner Permit or CAMTC Certification To**  
4 **Administer Massage.**

5 (A) Administrative fine: \$1,000 to be paid by Massage Business permittee.

6 (B) Permit penalty: None.

7 (C) Repeat violations: 15-30 day suspension of Massage Business permit  
8 and up to \$2,500 fine for second occurrence ~~within a 24 month period~~; 30-60 day suspension or  
9 revocation of Massage Business permit, and up to \$5,000 fine for third occurrence ~~within 24~~  
10 ~~months~~.

11 (6) **Massage Facilities Used for Residential Sleeping Purposes.**

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

13 (B) Permit penalty: None.

14 (C) Repeat violations: 15-30 day suspension of Massage Business permit  
15 and up to \$2,500 fine for second occurrence ~~within 24 months~~; 30-60 day suspension of  
16 Massage Business permit and up to \$5,000 fine for third occurrence ~~within 24 months~~.

17 (7) **Presence of Beds Instead of or in Addition to Massage Tables.**

18 (A) Administrative fine: ~~None~~ \$500.

19 (B) Permit penalty: None.

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

22 (8) **Any Massage Service Provider Improperly Attired in Violation of**  
23 **Section 29.17(a).**

24 (A) Administrative fine: Up to ~~\$250~~ \$500 per person found to be improperly  
25 attired, to be paid by Massage Business permittee.

1 (B) Permit penalty: ~~None~~ 60 day suspension of Massage Business permit for  
2 each person found to be improperly attired.

3 (C) Repeat violations: Up to \$1,500 fine per person to be paid by  
4 Massage Business permittee for second and each subsequent occurrence; 180 ~~60~~-day  
5 suspension of Massage Practitioner permit and ~~60-day suspension per person~~ revocation of  
6 Massage Business permit.

7 (9) **Sanitation Violations Pursuant to Section 29.321(a).**

8 (A) Administrative fine: None.

9 (B) Permit penalty: None.

10 (C) Repeat violations: Up to \$250 fine and 60-day suspension of  
11 Massage Business permit.

12 (10) **Massage Business Operating Between the Hours of 10:00 p.m. and**  
13 **7:00 a.m.**

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

15 (B) Permit penalty: ~~None~~ 15-30 day suspension of Massage Business Permit.

16 (C) Repeat violations: ~~15-30~~ 30-60 day suspension and up to \$2,500 for  
17 second occurrence ~~within 24 months~~; ~~30-60~~ 60-90 day suspension and up to \$5,000 fine for third  
18 and each subsequent occurrence ~~within 24 months~~.

19 (11) **Practicing Massage for Compensation Without a Massage**  
20 **Practitioner Permit or CAMTC Certification.**

21 (A) Administrative fine: ~~\$250~~ 500 fine.

22 (B) Repeat violations: ~~\$500~~ 1,000 fine for second occurrence ~~within 24~~  
23 ~~months~~; ~~\$1,000~~ 1,500 fine for third and each subsequent occurrence ~~within 24 months~~ and  
24 individual ineligible for Massage Practitioner permit for 180 days.

1 (12) **Anyone Engaged In Lewd Conduct or Performing Sex Acts as**  
2 **Defined in Section 29.17(b) on Massage Business Premises.**

3 (A) Administrative fine: ~~\$1,000~~\$2,500 to be paid by Massage Business  
4 permittee, and

5 (B) Permit penalty: ~~60-day suspension~~Revocation of *Massage Practitioner*  
6 *permit and revocation of* Massage Business permit.

7 ~~(C) Repeat violations: Revocation of *Massage Practitioner* permit and *Massage*~~  
8 ~~*Business* permit.~~ Permit holder ~~permanently~~ ineligible for subsequent *Massage Practitioner* or  
9 *Massage Business Permit* for a period of five years from the date of permit revocation.

10 (13) **Failure to Post Notices as Required by Section 29.321(i).**

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

13 (B) Permit Penalty: 30-day suspension of *Massage Business* permit for  
14 third and subsequent violations ~~within 24 months.~~

15 (14) **Failure to Present Valid *Massage Practitioner* Card to an Inspector or Law**  
16 **Enforcement Officer upon Request, as Required by Section 29.15.**

17 (A) Administrative fine: \$250 to be paid by *Massage Practitioner*.

18 (15) **Publishing Advertising in Violation of Section 29.31(n).**

19 (A) Administrative fine: \$1,000 fine.

20 (B) Permit Penalty: 30 day suspension of *Massage Business* permit for second  
21 *and subsequent* violations.

22 (16) **Interfering with City Staff in Their Performance of an Inspection, as Prohibited**  
23 **by Section 29.33(a)(2).**

24 (A) Administrative fine: \$1,000 fine to be paid by *Massage Business* permittee.

1                                    (B) Repeat violations: \$2,500 fine and 30 day suspension of Massage Business  
2 permit for second occurrence; revocation of Massage Business permit for third occurrence.

3                                    (17) Equipping Interior Doors with Locks or Locking Devices, or Locking Exterior  
4 Doors, in violation of Section 29.31(g).

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

6                                    (B) Permit penalty: 15-30 day suspension of Massage Business Permit.

7                                    (C) Repeat violations: 30-60 day suspension and up to \$2,500 for second  
8 occurrence; 60-90 day suspension and up to \$5,000 fine for third and each subsequent occurrence.

9                                    **(148) All Other Violations of San Francisco Health Code Article 29 and**  
10 **Any Massage Program Rules and Regulations.**

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

12                                    (B) Permit penalty: Possible suspension or revocation.

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

16                                    (19) Option to Require Massage Practitioner Participation in Public Health and  
17 Safety Program. As an alternative to any of the administrative penalties and permit penalties that the  
18 Department may impose on a Massage Practitioner, as authorized by this Section 29.45, the Director  
19 may require that a Massage Practitioner participate in a Department program that addresses such  
20 topics as health education, employee and labor rights, and workplace injury and illness prevention.

21                                    **(b) Notice to Property Owner.** Written notice of each Massage Business permit holder,  
22 violation shall be provided to the owner(s) of the property upon which the Massage Business is  
23 located. Written notice of each Notice of Violation that proposes to suspend or revoke a Massage  
24 Business permit shall be served on the owner(s) of the property upon which the Massage Business is  
25 located, at the same time and in the same manner as required by Section 29.43 of this Article 29.

1            (c) Payment and Collection of Administrative Penalty and Enforcement Costs. Any  
2 administrative penalty and/or enforcement costs assessed under this Article 29 is a debt to the City and  
3 County of San Francisco and shall be paid to the Treasurer of the City and County of San Francisco.  
4 Any amount paid late shall be subject to an additional late fine of 10% on the unpaid amount. The sum  
5 of the unpaid amount and the 10% late fine shall accrue interest at the rate of 1% per month (or  
6 fraction thereof) until fully paid; any partial payments made shall first be applied to accrued interest.  
7 The City may file a civil action or pursue any other legal remedy to collect such unpaid amount, fine,  
8 and interest. In any civil action for collection, the City shall be entitled to obtain a judgment for the  
9 unpaid amounts, fine, and interest, and for the costs and attorneys' fees incurred by the City in  
10 bringing such civil action.

11            (d) Lien for Administrative Penalty. Where an activity or condition on San Francisco real  
12 property has caused, contributed to, or been a substantial factor in causing the violation, the Director  
13 may initiate proceedings to make any unpaid administrative penalty, enforcement costs, fine, and  
14 interest, and all additional authorized costs and attorneys' fees, a lien on the property. Such liens shall  
15 be imposed in accordance with Administrative Code Sections 10.230–10.237, or any successor  
16 provisions. Before initiating lien proceedings, the Director shall send a request for payment under  
17 Administrative Code Section 10.230A.

18            (ee) Revenue from Fines. Administrative fines collected under this Section 29.45 shall  
19 be used to support the Department of Public Health and its Health Code enforcement  
20 functions.

21            (df) No Bar to Prosecution. Nothing in this Section 29.45 shall preclude the  
22 prosecution of anyone under Health Code Section 29.47, the laws of the State of California, or  
23 the laws of the United States of America.

24  
25            **SEC. 29.46. COST RECOVERY.**

1           ~~Any person who is assessed an administrative fine or whose permit is suspended or revoked~~  
2 ~~under this Article, regardless of whether any fine, suspension, or revocation is held in abeyance by the~~  
3 ~~Department, shall be liable to the City for its costs incurred in enforcing this Article, including but not~~  
4 ~~limited to the costs of inspection, investigation, administration, administrative proceedings, court~~  
5 ~~proceedings, monitoring, and attorneys' fees if, at the conclusion of all proceedings, the fee or permit~~  
6 ~~action is substantially sustained. Within 30 days of the final decision, the Department shall calculate its~~  
7 ~~costs. The Director may reduce the bill of costs for good cause.~~

8  
9           **SEC. 29.46. ENFORCEMENT BY CITY ATTORNEY.**

10           (a) The City Attorney may at any time institute civil proceedings for injunctive and monetary  
11 relief including civil penalties, against any Person for violations of this Article 29, without regard to  
12 whether the Director has issued a notice of violation, instituted abatement proceedings, scheduled or  
13 held a hearing on a notice of violation, or issued a final decision.

14           (b) At any time, the Director may refer a case to the City Attorney's Office for civil  
15 enforcement, but a referral is not required for the City Attorney to bring a civil action under subsection  
16 (a).

17           (c) Action for Injunction and Civil Penalty. Any Person that violates any provision of this  
18 Article 29 shall be enjoined and shall be subject to a civil penalty in an amount not to exceed \$1,000  
19 for each day such violation is committed or permitted to continue, which penalty shall be assessed and  
20 recovered in a civil action brought in the name of the people of the City and County of San Francisco  
21 by the City Attorney in any court of competent jurisdiction. In assessing the amount of the civil penalty,  
22 the court shall consider any one or more of the relevant circumstances presented by any of the parties  
23 to the case, including but not limited to, the following: the nature and seriousness of the misconduct  
24 giving rise to the violation, the number of violations, the persistence of the misconduct, the length of  
25



1 time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the  
2 defendant's assets, liabilities, and net worth.

3 (d) Attorneys' fees. The prevailing party in any court case or special proceeding to enforce  
4 this Article 29 shall recover reasonable attorneys' fees if the City Attorney elects, at the initiation of the  
5 action, to seek recovery of attorneys' fees and provides notice of such intention to the adverse party or  
6 parties. In no court case or special proceeding shall an award of attorneys' fees to a prevailing party  
7 exceed the amount of reasonable attorneys' fees incurred by the City.

8 (e) Remedies under this Section 29.46 are non-exclusive and cumulative to all other remedies  
9 available at law or equity.

10  
11 Section 2. The Health Code is hereby amended by revising Section 581, to read as  
12 follows:

13  
14 **581. PROHIBITED PUBLIC HEALTH NUISANCES.**

15 (a) No Person shall have upon any premises or real property owned, occupied or  
16 controlled by him, or her, or it any public nuisance.

17 (b) The following conditions are hereby declared to be a public nuisance:

18 \* \* \* \*

19 (15) Any violations of Sections 29.10, 29.17, 29.25, 29.27, or 29.31 of this Code.

20 (156) Any violations of rules or regulations the Director adopts to implement the  
21 provisions of this Article or applicable provisions of State law.

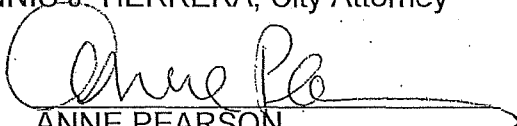
22 (167) Anything else that the Director deems to be a threat to public health and  
23 safety.

1 Section 3. Effective Date. This ordinance shall become effective 30 days after  
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
4 of Supervisors overrides the Mayor's veto of the ordinance.

5  
6 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
10 additions, and Board amendment deletions in accordance with the "Note" that appears under  
11 the official title of the ordinance.

12  
13 APPROVED AS TO FORM:  
14 DENNIS J. HERRERA, City Attorney

15 By:

  
16 ANNE PEARSON  
17 Deputy City Attorney

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20  
21  
22  
23  
24  
25

**REVISED LEGISLATIVE DIGEST**  
(Amended in Committee, 10/15/18)

[Health Code - Massage Practitioner and Business Permits]

**Ordinance amending the Health Code to comprehensively revise the regulation of massage practitioners, massage establishments, massage outcall services, and sole practitioner massage establishments by, among other things: 1) authorizing the Director of Health (“Director”) to access local, state, and federal criminal history information of permit applicants and permit holders; 2) eliminating temporary massage practitioner permits; 3) clarifying the administrative process by which permit applicants and permit holders may appeal a decision to deny, suspend, or revoke a permit; 4) authorizing the Director to deny a massage establishment permit to an applicant who has been convicted of any offense related to prostitution or solicitation of prostitution, unless the conviction was vacated based on a showing that the individual was a victim of human trafficking; 5) adding or revising massage establishment operating standards relating to vermin, employee areas, locked doors, residential use, and advertising; 6) prohibiting a massage business from operating a massage school on the same premises as a massage establishment; 7) establishing a massage establishment reinspection fee of \$191 per hour; 8) updating administrative and permit penalties; 9) authorizing the imposition of a lien on a property that has contributed to a violation of Article 29 of the Health Code (“Article 29”) to collect unpaid administrative penalties, enforcement costs, fines, interest, and attorneys’ fees; 10) authorizing the City Attorney to institute civil proceedings for injunctive and monetary relief for violations of Article 29; 11) declaring violations of select provisions of Article 29 to be public nuisances; and 12) discontinuing the acceptance of applications for massage practitioner permits effective January 1, 2019.**

Existing Law

Article 29 of the Health Code provides a comprehensive permitting and regulatory framework for massage practitioners and massage businesses over which the San Francisco Department of Public Health (“DPH”) has jurisdiction.

A massage practitioner requires a permit issued by DPH in order to provide massage services unless the practitioner holds a certificate to practice issued by the California Massage Therapy Council (“CAMTC”). A massage business must hold a permit from DPH in order to operate.

Applicants for massage practitioner permits must pass criminal background checks and demonstrate compliance with instructional requirements. Applicants for massage business permits must also pass criminal background checks and supply substantial information about

their proposed business. Massage businesses are subject to numerous operating requirements designed to protect the health and safety of massage business employees and customers.

Violations of Article 29 may subject massage practitioners and massage businesses to administrative fines and suspension or revocation of their permit, following notice of the violation and an opportunity to be heard at an administrative hearing.

#### Amendments to Current Law

The proposed ordinance would change the current regulatory scheme by:

- Authorizing the Director of DPH to access summary criminal history information to facilitate the approval, denial, suspension, and/or revocation of massage permits;
- Imposing a deadline of December 31, 2018 for the submission of an application for a massage practitioner permit;
- Authorizing the Director of DPH to deny massage permits on the basis of convictions for prostitution or solicitation of prostitution, unless the conviction was vacated based on a showing that the individual was a victim of human trafficking;
- Clarifying the process by which a permit applicant or permit holder may appeal administrative and permit penalties;
- Requiring applicants for massage business permits to submit to DPH a floor plan of the proposed business and proof of workers compensation coverage;
- Updating and/or establishing massage business operating standards to: require that the facility is free of vermin; establish a presumption that a massage business is being used as a residence, in violation of Article 29, if items such as sleepwear, groceries, and bedding are present; prohibit a massage business from advertising services that would violate Article 29; and prohibit a massage business from operating a massage school on the same premises;
- Increasing administrative fines and permit penalties for select violations of Article 29;
- Requiring that notices of violation relating to massage businesses be sent to the owner of the real property in which the business is located, and providing the real property owner with an opportunity to participate in the administrative appeals process;
- Authorizing the City Attorney to institute civil proceedings for injunctive and monetary relief for violations of Article 29;
- Revising the list of languages into which human trafficking notices must be translated and posted by eliminating Vietnamese and adding Chinese;
- Providing that violations of select provisions of Article 29 constitute prohibited public health nuisances, subject to fines and penalties set forth in Article 11 of the Health Code.

Background Information

This legislative digest reflects revisions introduced in the Land Use and Transportation Committee on October 15, 2018.

One of the purposes of Article 29 is to ensure that massage establishments do not become outlets of the sex trade and engage in human trafficking and other human rights violations. Enforcement of Article 29 by DPH and the City Attorney's Office has helped to increase compliance with standards that promote the health and safety of massage establishments' employees and customers, but violations continue to occur, including violations of the provisions of Article 29 that prohibit lewd acts. The proposed ordinance includes amendments that are intended to eliminate enforcement loopholes, and discourage conduct that puts worker and client safety at risk.

In addition, since 2015 when Article 29 was last amended, CAMTC has become the primary licensing agency for massage practitioners. In 2017, DPH processed only four applications for massage practitioner permits. To avoid a duplication of efforts, the proposed ordinance would establish December 31, 2018 as the last date that DPH will accept massage practitioner permit applications. After that date, individuals wishing to work as massage practitioners will be required to seek certification from CAMTC. Those practitioners who are currently permitted by DPH will retain their DPH permits, and be subject to DPH regulation.

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BOARD of SUPERVISORS



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

## MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
Small Business Commission, City Hall, Room 448

FROM: *el*  
*for* Erica Major, Assistant Clerk  
Land Use and Transportation Committee

DATE: August 7, 2018

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 180757**

Ordinance amending the Health Code to comprehensively revise the regulation of massage practitioners, massage establishments, massage outcall services, and sole practitioner massage establishments by, among other things: 1) authorizing the Director of Health ("Director") to access local, state, and federal criminal history information of permit applicants and permit holders; 2) eliminating temporary massage practitioner permits; 3) clarifying the administrative process by which permit applicants and permit holders may appeal a decision to deny, suspend, or revoke a permit; 4) authorizing the Director to deny a massage establishment permit to an applicant who has been convicted of any offense related to prostitution or solicitation of prostitution; 5) adding or revising massage establishment operating standards relating to vermin, employee areas, locked doors, residential use, and advertising; 6) prohibiting a massage business from operating a massage school on the same premises as a massage establishment; 7) establishing a massage establishment reinspection fee of \$191 per hour; 8) updating administrative and permit penalties; 9) authorizing the imposition of a lien on a property that has contributed to a

violation of Article 29 of the Health Code ("Article 29") to collect unpaid administrative penalties, enforcement costs, fines, interest, and attorneys' fees; 10) authorizing the City Attorney to institute civil proceedings for injunctive and monetary relief for violations of Article 29; 11) declaring violations of select provisions of Article 29 to be public nuisances; and 12) discontinuing the acceptance of applications for massage practitioner permits effective January 1, 2019.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

\*\*\*\*\*

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: \_\_\_\_\_

\_\_\_\_\_ No Comment

\_\_\_\_\_ Recommendation Attached

\_\_\_\_\_  
Chairperson, Small Business Commission

BOARD of SUPERVISORS



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

## MEMORANDUM

TO: Barbara A. Garcia, Director, Department of Public Health  
Julie Rosenberg, Executive Director, Board of Appeals  
Tom Hui, Director, Department of Building Inspection  
John Rahaim, Director, Planning Department  
Joanne Hayes-White, Chief, Fire Department

FROM: *EM* Erica Major, Assistant Clerk  
Land Use and Transportation Committee

DATE: August 7, 2018

SUBJECT: LEGISLATION INTRODUCED

---

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Tang on July 17, 2018:

**File No. 180757**

Ordinance amending the Health Code to comprehensively revise the regulation of massage practitioners, massage establishments, massage outcall services, and sole practitioner massage establishments by, among other things: 1) authorizing the Director of Health ("Director") to access local, state, and federal criminal history information of permit applicants and permit holders; 2) eliminating temporary massage practitioner permits; 3) clarifying the administrative process by which permit applicants and permit holders may appeal a decision to deny, suspend, or revoke a permit; 4) authorizing the Director to deny a massage establishment permit to an applicant who has been convicted of any offense related to prostitution or solicitation of prostitution; 5) adding or revising massage establishment operating standards relating to vermin, employee areas, locked doors, residential use, and advertising; 6) prohibiting a massage business from operating a massage school on the same premises as a massage establishment; 7) establishing a massage establishment reinspection fee of \$191 per hour; 8) updating administrative and permit penalties; 9) authorizing the imposition of a lien on a property that has contributed to a



violation of Article 29 of the Health Code (“Article 29”) to collect unpaid administrative penalties, enforcement costs, fines, interest, and attorneys’ fees; 10) authorizing the City Attorney to institute civil proceedings for injunctive and monetary relief for violations of Article 29; 11) declaring violations of select provisions of Article 29 to be public nuisances; and 12) discontinuing the acceptance of applications for massage practitioner permits effective January 1, 2019.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [erica.major@sfgov.org](mailto:erica.major@sfgov.org).

c: Greg Wagner, Department of Public Health  
Naveena Bobba, Department of Public Health  
Sneha Patil, Department of Public Health  
Gary Cantara, Board of Appeals  
William Strawn, Department of Building Inspection  
Carolyn Jayin, Department of Building Inspection  
Scott Sanchez, Planning Department  
Lisa Gibson, Planning Department  
AnMarie Rodgers, Planning Department  
Dan Sider, Planning Department  
Aaron Starr, Planning Department  
Joy Navarrete, Planning Department  
Laura Lynch, Planning Department  
Kelly Alves, Fire Department

BOARD of SUPERVISORS



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San Francisco 94102-4689  
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Fax No. 554-5163  
TDD/TTY No. 554-5227

## NOTICE OF PUBLIC HEARING

### BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE AND TRANSPORTATION COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

**Date:** Monday, October 15, 2018

**Time:** 1:30 p.m.

**Location:** Legislative Chamber, Room 250, located at City Hall  
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

**Subject:** File No. 180757. Ordinance amending the Health Code to comprehensively revise the regulation of massage practitioners, massage establishments, massage outcall services, and sole practitioner massage establishments by, among other things: 1) authorizing the Director of Health ("Director") to access local, state, and federal criminal history information of permit applicants and permit holders; 2) eliminating temporary massage practitioner permits; 3) clarifying the administrative process by which permit applicants and permit holders may appeal a decision to deny, suspend, or revoke a permit; 4) authorizing the Director to deny a massage establishment permit to an applicant who has been convicted of any offense related to prostitution or solicitation of prostitution; 5) adding or revising massage establishment operating standards relating to vermin, employee areas, locked doors, residential use, and advertising; 6) prohibiting a massage business from operating a massage school on the same premises as a massage establishment; 7) establishing a massage establishment reinspection fee of \$191 per hour; 8) updating administrative and permit penalties; 9) authorizing the imposition of a lien on a property that has contributed to a violation of Article 29 of the Health Code ("Article 29") to collect unpaid administrative penalties, enforcement costs, fines, interest, and attorneys' fees; 10) authorizing the City Attorney to institute civil proceedings for injunctive and monetary relief for violations of Article 29; 11) declaring violations of select provisions of Article 29 to be public nuisances; and 12) discontinuing the acceptance of applications for massage practitioner permits effective January 1, 2019.

If this legislation passes, Health Code, Section 29.41, will be amended by adding a new reinspection fee. If an inspection discloses a violation of any provision of the Code or any State law for which the Department of Public Health (Department) is responsible for enforcement, the Department shall determine a period of time that is reasonable to correct the violation and shall thereafter reinspect the property to verify such correction. Reinspection refers to any inspection by the Department to verify whether an owner has corrected a violation. The massage business shall pay a fee in the amount of \$191 the first hour, or any fraction thereof, for each reinspection by an inspector to compensate the Department for costs in performing the reinspection. Reinspections that require more than one hour to complete shall be subject to an additional fee at the rate of \$96 for each half-hour, or part thereof, beyond the first 60 minutes. If more than one reinspection is necessary to secure correction of a violation, the Massage Business shall pay a fee of \$96 for each half-hour, or part thereof, beyond the first 60 minutes.

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, October 12, 2018.

  
for Angela Calvillo  
Clerk of the Board

DATED/POSTED: October 5, 2018  
PUBLISHED: October 5 and October 11, 2018

Print Form

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

2018 JUL 17 11:46  
Time Stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.  
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission     Youth Commission     Ethics Commission
- Planning Commission     Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative**

**Sponsor(s):**

Tang, Yee

**Subject:**

Health Code - Massage Practitioner and Business Permits

**The text is listed below or attached:**

See attached

Signature of Sponsoring Supervisor: *[Handwritten Signature]*

For Clerk's Use Only: