

1 [Health Code - Massage Practitioners, Establishments, and Associated Fees]

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

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

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

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

10 **ARTICLE 29**
11 **LICENSING AND REGULATION OF**
12 **MASSAGE PRACTITIONERS AND ESTABLISHMENTS**

13
14 **GENERAL PROVISIONS**

15 **SEC. 29.1 FINDINGS AND PURPOSE.**

16 **SEC. 29.2. ADMINISTRATION AND ENFORCEMENT.**

17 **SEC. 29.3. COMPLAINT LINE.**

18 **SEC. 29.4. TRANSFER OF PERMIT.**

19 **SEC. 29.5. DEFINITIONS.**

20
21 **MASSAGE PRACTITIONER PERMITS**

22 **SEC. 29.10. PERMIT REQUIRED FOR MASSAGE PRACTITIONER; EXEMPTIONS.**

23 **SEC. 29.11. APPLICATION FOR GENERAL OR ADVANCED MASSAGE**
24 **PRACTITIONER PERMIT.**

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

- 1 **SEC. 29.13. TEMPORARY MASSAGE PRACTITIONER PERMITS.**
- 2 **SEC. 29.14. EDUCATIONAL MATERIALS.**
- 3 **SEC. 29.15. MASSAGE PRACTITIONER IDENTIFICATION CARD.**
- 4 **SEC. 29.16. MASSAGE PRACTITIONER ANNUAL LICENSE FEE.**
- 5 **SEC. 29.17. MASSAGE PRACTITIONER CONDUCT REQUIREMENTS.**
- 6 **SEC. 29.18. SUSPENSION OR REVOCATION OF MASSAGE PRACTITIONER**
- 7 **PERMIT.**

8
9 **ESTABLISHMENT PERMITS**

- 10 **SEC. 29.25. ESTABLISHMENT PERMIT REQUIRED; EXEMPTIONS.**
- 11 **SEC. 29.26. APPLICATION FOR ESTABLISHMENT PERMIT.**
- 12 **SEC. 29.27. REQUIREMENTS FOR MASSAGE FACILITIES.**
- 13 **SEC. 29.28. REFERRAL OF PERMIT APPLICATION TO OTHER DEPARTMENTS.**
- 14 **SEC. 29.29. ISSUANCE OF ESTABLISHMENT PERMIT.**
- 15 **SEC. 29.30. BUSINESS TAX AND ZONING INFORMATION.**
- 16 **SEC. 29.31. ESTABLISHMENT ANNUAL LICENSE FEE.**
- 17 **SEC. 29.32. ESTABLISHMENT OPERATING REQUIREMENTS.**
- 18 **SEC. 29.33. INSPECTION.**
- 19 **SEC. 29.34. SUSPENSION OR REVOCATION OF ESTABLISHMENT PERMIT.**

20
21 **FEES**

- 22 **SEC. 29.40. MASSAGE PRACTITIONER FEES.**
- 23 **SEC. 29.41. ESTABLISHMENT FEES.**
- 24 **SEC. 29.42. ADJUSTMENT OF FEES.**

1 **ENFORCEMENT AND PENALTIES**

2 **SEC. 29.45. VIOLATIONS AND ADMINISTRATIVE PENALTIES.**

3 **SEC. 29.46. COST RECOVERY.**

4 **SEC. 29.47. VIOLATIONS AND CRIMINAL PENALTIES.**

5 **SEC. 29.48. COOPERATIVE EFFORTS WITH LAW ENFORCEMENT.**

6 **SEC. 29.49. UNDERTAKING FOR THE GENERAL WELFARE.**

7 **SEC. 29.50. SEVERABILITY.**

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

9
10 **GENERAL PROVISIONS**

11 **SEC. 29.1. FINDINGS AND PURPOSE.**

12 (a) In 2008, the Legislature enacted uniform statewide regulations pertaining to massage
13 therapy (Senate Bill No. 731 (2008), amended by Assembly Bill 619 (2011)) codified in Business and
14 Professions Code Sections 4600 et seq. The regulations created a private nonprofit benefit
15 corporation, the California Massage Therapy Council (“CAMTC”), which was authorized to regulate
16 and standardize the issuance of certificates to massage professionals throughout the state.

17 (b) The 2008 law as amended also served to exempt massage practitioners and massage
18 therapists who are certified by the CAMTC and massage establishments that employ only CAMTC-
19 certified practitioners from local permitting and other regulatory requirements except for reasonable
20 health and safety standards. This has had a preemptive effect on the ability of cities and counties to
21 effectively regulate massage establishments.

22 (c) The lack of local regulation has led to a marked increase in the number of massage
23 establishments that have opened in San Francisco, especially in some areas of the City that now exhibit
24 a significant concentration of such establishments.

1 (d) The lack of regulation has also allowed many illicit massage establishments to open,
2 sometimes under euphemistic monikers like “relaxation spa” or “health club.” These illicit
3 establishments are generally outlets of the sex trade, and some engage in human trafficking and other
4 human rights violations. Such massage establishments are detrimental to the health and safety of the
5 community and adversely impact the local economy by driving legitimate business away, potentially
6 affecting the vitality of neighborhoods and the provision of adequate services for residents and visitors
7 alike.

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

12 (f) Under AB 1147, cities and counties regained broad control over the ability to regulate
13 establishments that provide massage therapy services, and CAMTC retained responsibility over
14 regulating those individuals who hold a CAMTC certificate to practice massage therapy.

15 (g) Through this Article 29, the City seeks to exercise its authority under AB 1147 to
16 regulate all massage establishments, including those that employ only CAMTC-certified practitioners,
17 and to regulate massage practitioners who do not hold a CAMTC certificate.

18 **SEC. 29.2. ADMINISTRATION AND ENFORCEMENT.**

19 This Article shall be administered and enforced by the Department of Public Health. The
20 Director, after a noticed public hearing, may adopt rules and regulations to carry out the provisions of
21 this Article.

22 **SEC. 29.3. COMPLAINT LINE.**

23 The Director shall maintain a phone line for inquiries and complaints regarding massage
24 businesses and practitioners.

25 **SEC. 29.4. TRANSFER OF PERMIT.**

1 No permit issued under this Article shall be transferable under any circumstances, including but
2 not limited to the sale of the massage establishment.

3 **SEC. 29.51. DEFINITIONS.**

4 For the purposes of this Article:

5 “Advanced Massage Practitioner” means a Massage Practitioner whom the Department has
6 granted an advanced permit rather than a general permit on the basis of having satisfied the additional
7 education requirements set forth in Section 29.11(c).

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

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

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

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

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

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

21 “Department” means Department of Public Health.

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

24 “Establishment” means Massage Establishment, Outcall Massage Service, and Sole Practitioner
25 Massage Establishment collectively, except where otherwise specified.

1 "Health Care Provider" shall mean any person whose activities are licensed or regulated under
2 Division 2 of the California Business and Professions Code or any initiative act referred to in that
3 Division.

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

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

13 "Massage ~~P~~Practitioner" means any individual ~~who, for any monetary consideration~~
14 ~~whatsoever, engages in the practice of massage who administers Massage for Compensation pursuant~~
15 ~~to a permit issued by the Director under this Article 29. Except as otherwise specified,~~ "Massage
16 ~~p~~Practitioner" shall include ~~s~~ both general ~~massage practitioners~~ and advanced ~~massage~~
17 practitioners, as provided in Section 29.211. "Massage Practitioner" does not include CAMTC
18 Certified Practitioner.

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

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

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

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

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

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

20 "Sole ~~p~~Practitioner ~~m~~Massage ~~e~~Establishment" means a Massage practice at a fixed
21 place of business where a person holding and solely owned by an advanced mMassage
22 pPractitioner permit holder or CAMTC Certified Practitioner, engages in or carries on, or permits to
23 be engaged in or carried on, the practice of who is the only person who provides mMassage for
24 Compensation. The business location Said fixed place of business may be shared by two to four
25 advanced mMassage pPractitioners or CAMTC Certified Practitioners in any combination, or two

1 ~~to four advanced massage practitioners~~ and one or more ~~h~~Health Care Providers ~~or healing arts~~
2 ~~practitioners~~, except as otherwise provided pursuant to Section 29.2914(e).

3
4 **MASSAGE PRACTITIONER PERMITS**

5 **SEC. 29.102. PERMIT REQUIRED FOR MASSAGE PRACTITIONER;**
6 **EXEMPTIONS.**

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

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

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

18 (1) CAMTC Certified Practitioners.

19 (e2) ~~A permit is not required where the individual is a~~ A licensed or certificated
20 ~~h~~Health eCare Provider practitioner practicing massage as part of his or her health care
21 practice. ~~For purposes of this Section, "health care practitioner" shall mean any person whose~~
22 ~~activities are licensed or regulated under Division 2 of the California Business and Professions Code~~
23 ~~or any initiative act referred to in that division.~~

24 (d3) ~~A permit is not required where the individual is a~~ barber, cosmetologist, esthetician,
25 or manicurist licensed or certificated pursuant to Division 3, Chapter 10, of the California

1 Business and Professions Code, practicing massage as part of his or her work as a barber,
2 cosmetologist, esthetician, or manicurist and within the scope of any relevant state restrictions
3 on the practice of massage by members of those professions.

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

8 **SEC. 29.113. APPLICATION FOR GENERAL OR ADVANCED MASSAGE**
9 **PRACTITIONER PERMIT.;** ~~GENERAL AND ADVANCED PRACTITIONERS NOT CERTIFIED BY~~
10 ~~THE CAMTC.~~

11 (a) Permit Application. ~~Unless certified as a massage practitioner or therapist by the CAMTC~~
12 ~~pursuant to the California Business and Professions Code, e~~ Every applicant for a mMassage
13 pPractitioner permit shall:

- 14 (1) Ffile an application with the Director upon a form provided by the Director;
- 15 (2) PProvide a complete set of fingerprints in the manner required by the Director for the
16 purpose of undergoing a criminal background check; and
- 17 (3) Ppay a non-refundable application fee, as set forth in Section 29.2640.

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

- 20 (1) The applicant's Nname and residence address ~~of the applicant;~~
- 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 Aapplicant's height, weight, and color of hair and eyes;

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

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

10 (7) All felony or misdemeanor convictions and pending criminal charges that are
11 unresolved; and

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

13 (c) Minimum Educational Requirements for General and Advanced Permits. Massage
14 Practitioner permits shall be awarded at the general or advanced level, depending on the number of
15 hours of instruction and training the applicant has completed. An applicant for a general
16 ~~m~~Massage ~~p~~Practitioner permit shall provide, ~~as part of the application, the name and address of~~
17 ~~the recognized school for massage attended, the dates attended, and the original of the diploma or~~
18 ~~certificate of completion awarded the applicant, in a form acceptable to the Director, documentation~~
19 showing that the applicant has completed not less than ~~250~~100 hours of instruction in massage
20 and related subjects at an Approved Massage School. An applicant for an advanced ~~m~~Massage
21 ~~p~~Practitioner permit shall provide acceptable documentation that the applicant has successfully
22 completed 500 hours of such instruction. ~~as part of the application, the name and address of the~~
23 ~~recognized school or schools for massage attended, the dates attended, and the original of the~~
24 ~~diploma(s) or certificate(s) of completion awarded the applicant showing that the applicant has~~
25 ~~completed not less than 200 hours of instruction.~~The additional ~~250~~100 hours of instruction

1 required for the advanced ~~m~~M~~a~~ssage ~~p~~P~~r~~actitioner permit may be completed at one or more
2 Approved sSchools. If the applicant already holds a current general ~~m~~M~~a~~ssage ~~p~~P~~r~~actitioner
3 permit, he or she need~~s~~ only submit documentation for the additional ~~250~~100 hours of
4 instruction necessary for the advanced ~~m~~M~~a~~ssage ~~p~~P~~r~~actitioner permit.

5 (d) Proficiency Test. The Director shall administer a ~~culturally-sensitive~~ test to all
6 applicants, in the applicant's own language, to confirm basic proficiency in ~~m~~M~~a~~ssage before
7 issuing a permit.

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

11 **SEC. 29.124. ISSUANCE OF MESSAGE PRACTITIONER PERMIT. ~~FOR~~**
12 **~~PRACTITIONERS NOT CERTIFIED BY THE CAMTC.~~**

13 (a) Time for Decision. ~~Within 14 days following a hearing, or, if no hearing is held, within~~
14 60 business days following receipt of a completed application for a ~~m~~M~~a~~ssage ~~p~~P~~r~~actitioner
15 permit, ~~for a practitioner who is not certified as a massage practitioner or therapist by the CAMTC~~
16 ~~pursuant to the California Business and Professions Code~~ the Director shall either issue the permit
17 or mail a written statement of his or her reasons for denial thereof to the applicant. If the
18 Director takes neither action, the permit shall be deemed issued.

19 (b) Hearing on Application. ~~The Director may, in his or her discretion, hold a hearing on any~~
20 ~~pending application for a Massage Practitioner permit. The Director shall give the applicant at least~~
21 ~~10 days' written notice of the time and place of the hearing.~~

22 (c) Grounds for Denial. No ~~m~~M~~a~~ssage ~~p~~P~~r~~actitioner permit shall be issued if the
23 Director finds:

- 24 (1) The applicant is exempt from the permit requirement pursuant to Section 29.10; or
25

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

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

4 (3) Within five years immediately prior to the date of application, the applicant
5 has had any license, *certificate*, or permit related to the practice of ~~m~~Massage revoked *or, if*
6 *from another jurisdiction, suspended under circumstances that qualify for revocation under this Article*
7 *29, or is currently the subject of an unresolved disciplinary process that may result in suspension or*
8 *revocation*; or

9 (4) The applicant has been ~~e~~Convicted of, *or is currently charged with*, any of the
10 following offenses ~~*or convicted of an offense outside the State of California that would have*~~
11 ~~*constituted any of the following offenses if committed within the State of California:*~~

12 (A) Any felony involving the use of coercion, ~~or~~ *and* violence
13 upon another person; or

14 (B) Any misdemeanor sexual battery; or

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

16 (D) Any offense requiring registration pursuant to Section 290 of the
17 California Penal Code *or, for Convictions outside California, any offense requiring registration in*
18 *California under Penal Code Section 290.005.*

19 (5) *The applicant has failed to satisfy the education requirements or pass the massage*
20 *proficiency test; or*

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

23 ~~(de)~~ *Discretionary Exception for Criminal Convictions.* The Director may issue a
24 ~~m~~Massage pPractitioner permit to any individual ~~e~~Convicted of one of the offenses listed in
25 ~~s~~subsection ~~(cb)~~(4) of this Section if the Director finds that the offense was not violent, the

1 conviction occurred at least five years prior to the date of application, and the applicant has
2 not been ~~e~~Convicted subsequently of ~~one of those a listed~~ offenses.

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

16 **SEC. 29.135. TEMPORARY AND TRAINEE MASSAGE PRACTITIONER PERMITS.**
17 ~~TRAINEE PERMIT FOR PRACTITIONERS NOT CERTIFIED BY THE CAMTC.~~

18 (a) Temporary Permit During Application Period. Upon completion and submission of an
19 application for a ~~m~~Massage ~~p~~Practitioner permit ~~for a practitioner who is not certified as a~~
20 ~~massage practitioner or therapist by the CAMTC pursuant to the California Business and Professions~~
21 ~~Code, as required in Section 29.3 of this Article,~~ and upon payment of all fees for the permit, an
22 applicant may request a temporary ~~m~~Massage ~~p~~Practitioner permit. If requested, the Director
23 shall issue the temporary ~~m~~Massage ~~p~~Practitioner permit, ~~which is~~ shall be valid for the period
24 during which the application is under review, but in no event for more than 60 business days.
25 The Director may revoke the temporary permit at any time if he or she finds that the applicant

1 has failed to meet any of the requirements of Section 29.412 or violated any provision of this
2 Article 29.

3 (b) Trainee Permits. The Director may adopt rules and procedures for issuing trainee
4 permits, not to exceed three months in duration, to persons who have otherwise successfully
5 completed an application for a ~~m~~Massage ~~p~~Practitioner permit, ~~and~~ who are currently
6 registered in an Approved recognized sMassage School ~~of massage, and who seek~~ to fulfill the
7 training requirement imposed by the school.

8 **SEC. 29.14. EDUCATIONAL MATERIALS.**

9 The Director shall provide all persons receiving a Massage Practitioner permit with
10 educational materials regarding their rights and informing them of available resources, such as health
11 services and victim assistance, as well as emergency numbers and hotlines to call for information and
12 assistance.

13 **SEC. 29.156. MESSAGE PRACTITIONER IDENTIFICATION CARD. FOR**
14 **PRACTITIONERS NOT CERTIFIED BY THE CAMTC.**

15 The Director shall provide each all mMassage Practitioners ~~granted a permit, who are not~~
16 ~~certified as a massage practitioner or therapist by the CAMTC pursuant to the California Business and~~
17 ~~Professions Code,~~ with a photo identification card. ~~Massage e~~Establishments must post
18 practitioner identification cards at all times in a public area for all Massage pPractitioners
19 working at any ~~m~~Massage ~~e~~Establishment or ~~solo~~ Sole pPractitioner ~~m~~Massage ~~e~~Establishment.
20 The identification card must be presented to any City health inspector or law enforcement
21 officer upon request. ~~at all times during the regular business hours of any massage establishment or~~
22 ~~solo practitioner massage establishment.~~

23 **SEC. 29.167. MESSAGE PRACTITIONER ANNUAL LICENSE FEE.**

24 Every ~~m~~Massage ~~p~~Practitioner shall pay to the Tax Collector an annual license fee, as
25 set forth in Section 29.2641.

1 **SEC. 29.17. MESSAGE PRACTITIONER CONDUCT REQUIREMENTS.**

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

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

15 **SEC. 29.18. SUSPENSION OR REVOCATION OF MESSAGE PRACTITIONER**
16 **PERMIT, FOR PRACTITIONERS NOT CERTIFIED BY THE CAMTC.**

17 (a) Grounds for Suspension or Revocation. The Director may revoke or suspend any
18 ~~m~~Massage pPractitioner permit ~~for a practitioner who is not certified as a massage practitioner or~~
19 ~~therapist by the CAMTC pursuant to the California Business and Professions Code,~~ after a public
20 hearing; if the Director finds:

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

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

1 ~~SEC. 29.9. REGISTRATION OF MASSAGE ESTABLISHMENTS THAT EMPLOY ONLY~~
2 ~~CAMTC CERTIFIED PRACTITIONERS.~~

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

8 ~~(b) All massage establishments that employ only massage practitioners who are certified by~~
9 ~~CAMTC must notify the Department if any CAMTC certified massage practitioner loses their CAMTC~~
10 ~~certification.~~

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

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

21 **SEC. 29. 2510. ESTABLISHMENT PERMIT REQUIRED; EXEMPTIONS. FOR A**
22 ~~MASSAGE ESTABLISHMENT, SOLO PRACTITIONER; MASSAGE ESTABLISHMENT, OR~~
23 ~~OUTCALL MASSAGE SERVICE, EXEMPTIONS FOR PRACTITIONERS NOT CERTIFIED BY THE~~
24 ~~CAMTC.~~

1 (a) Permit Required. It shall be unlawful for any ~~person~~ Owner of a Massage Establishment,
2 Outcall Massage Service, or Sole Practitioner Massage Establishment to operate that Establishment
3 ~~engage in, conduct, or carry on, or to permit to be engaged in, conducted, or carried on, in or upon~~ at
4 any location ~~premises~~ in the City ~~the operation of a massage establishment, solo practitioner massage~~
5 ~~establishment, or outcall massage service~~ without first obtaining a permit from the Director. In the
6 event that a business owner or operator disclaims that the business provides Massage services, the
7 Director may hold a hearing to determine whether an Establishment permit is required. ~~, unless all~~
8 ~~persons employed by that establishment or service are certified as massage practitioner(s) or~~
9 ~~therapist(s) by the CAMTC pursuant to the California Business and Professions Code.~~

10 (b) Exemptions. The following businesses may provide massage services without obtaining an
11 Establishment permit.

12 (1) Hospitals, nursing homes, and other ~~S~~state-licensed health care facilities
13 providing massage services to their patients shall not be required to obtain a permit under this
14 Section 29.25, where the services are provided by a ~~licensed or certificated h~~Health ~~c~~Care
15 Provider practitioner or an individual practicing massage under the direction of a ~~h~~Health ~~c~~Care
16 Provider practitioner. ~~For purposes of this Section, "health care practitioner" shall mean any person~~
17 ~~whose activities are licensed or regulated under Division 2 of the California Business and Professions~~
18 ~~Code or any initiative act referred to in that division.~~

19 (e2) A permit shall not be required under this Section where the services are
20 provided on the premises (~~1A~~) by a ~~licensed or certificated h~~Health ~~c~~Care Provider practitioner or
21 (~~2B~~) by a barber, cosmetologist, esthetician, or manicurist; licensed or certificated pursuant to
22 Division 3, Chapter 10, of the California Business and Professions Code, practicing massage
23 as part of his or her work as a barber, cosmetologist, esthetician, or manicurist, and within the
24 scope of any relevant state restrictions on the practice of massage by members of those
25 professions.

1 (c) Previously Exempt Massage Businesses. A massage business previously exempt from the
2 Establishment permit requirement under prior Section 29.9 but not currently exempt under subsection
3 (b) of this Section 29.25 may continue to operate without an Establishment permit until its application
4 for a permit is submitted and decided; provided that the Owner submits a completed application within
5 three months of the effective date of the ordinance deleting former Section 29.9; and further provided
6 that the business complies with all provisions of this Article and any rules and regulations that apply to
7 Establishments during the interim period in which it operates without a permit. The Director shall
8 conduct a public hearing on the application as provided in Section 29.29(b). The Director may deny
9 the application for an Establishment permit on any ground enumerated in Sections 29.29 and 29.34,
10 grant the permit, or grant the permit with conditions.

11 ~~A non-profit organization providing massage services on its premises, and the individuals~~
12 ~~providing the massage services, are exempt from permit and license fees under this Article, but the~~
13 ~~organization and the individuals must obtain the necessary permits and licenses and otherwise comply~~
14 ~~with all relevant requirements.~~

15 **SEC. 29.2611. APPLICATION FOR ~~MASSAGE ESTABLISHMENT, SOLO~~**
16 **~~PRACTITIONER MASSAGE ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE PERMIT. FOR~~**
17 **~~PRACTITIONERS NOT CERTIFIED BY THE CAMTC.~~**

18 (a) Application Requirements. Unless all massage practitioners or therapists providing
19 services are certified as a massage practitioner or therapist by CAMTC pursuant to the California
20 Business and Professions Code, every applicant for a massage establishment, solo practitioner
21 massage establishment, or outcall massage service permit To apply for an Establishment permit, the
22 Owner shall:

- 23 (1) ~~f~~File an application with the Director upon a form provided by the Director;
24 (2) ~~p~~Provide a complete set of fingerprints in the manner required by the Director
25 from any person with an ownership interest in the Establishment, through the Live Scan process, or any

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

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

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

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

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

10 ~~(2) The exact nature~~ A description of ~~the~~ all services to be rendered by the
11 Establishment;

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

17 ~~(4) The number of individuals to be employed by the business~~ Establishment,
18 and, except in the case of a ~~sole~~ Sole ~~massage~~ Practitioner Massage ~~Establishment~~, the names
19 and permit or certificate numbers of any ~~m~~ Massage ~~p~~ Practitioners or CAMTC Certified
20 Practitioners who shall operate under that permit;

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

22 (5) ~~Any history of previous massage~~ All permits, certificates, or licenses related to
23 the practice of Massage or the operation of an Establishment, currently or formerly held by an Owner,
24 issued in San Francisco or issued by CAMTC or elsewhere, including any discipline imposed by the
25 issuing authority and a statement whether the permit holder is currently the subject of a disciplinary

1 ~~process, including whether any such permit or license has been revoked and the reasons therefor, for~~
2 ~~each applicant; and~~

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

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

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

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

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

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

13 (ef) Compliance with Planning Code Notice Requirement. Applicants shall also submit
14 proof of compliance with any applicable Planning Code requirements regarding notice and
15 posting of the proposed ~~e~~EEstablishment.

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

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

24 ~~(i) No massage establishment permit shall be issued if the Director finds:~~

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

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

2 ~~(3) Within five years immediately prior to the date of application, the applicant has had~~
3 ~~any license or permit related to the operation of a massage establishment revoked by the City, another~~
4 ~~City or County, or by the CAMTC; or~~

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

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

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

1 **SEC. 29.2712. ~~OPERATING REQUIREMENTS FOR ALL MASSAGE FACILITIES.~~**

2 **~~ESTABLISHMENTS.~~**

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

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

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

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

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

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

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

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

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

21 (2) Handwashing facilities shall be readily accessible to ~~the~~ massage
22 practitioner~~s~~.

23 (c) Light and Ventilation. All portions of the ~~massage e~~ Establishment shall be provided
24 with adequate light ~~and ventilation~~ by means of windows, ~~or~~ skylights, ~~or~~ ~~with an area of not less~~
25 ~~than of the total floor area, or shall be provided~~ with an approved artificial light. Adequate

1 ventilation shall be provided by means of windows or ~~and~~ a mechanical operating ventilating
2 system.

3 (1) Toilet, dressing, and massage rooms shall be provided with at least 108 lux
4 (10 foot candles) of light.

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

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

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

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

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

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

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

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

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

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

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

25

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

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

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

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

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

24 ~~(l) Unless the massage establishment operator and all practitioners are CAMTC certified, the~~
25 ~~operator of the massage establishment must post a notice informing the public and victims of human~~

1 ~~trafficking of telephone hotline numbers to seek help or report unlawful activity in English, Spanish,~~
2 ~~Cantonese and Vietnamese, and other appropriate languages as determined by the Department in a~~
3 ~~conspicuous place near the public entrance of the massage establishment or in another conspicuous~~
4 ~~location in clear view of the public and employees where similar notices are customarily posted~~
5 ~~pursuant to Cal. Civil Code Section 52.6.~~

6 **SEC. 29.2813. REFERRAL OF PERMIT APPLICATION TO OTHER**
7 **DEPARTMENTS., ~~FOR PRACTITIONERS NOT CERTIFIED BY THE CAMTC.~~**

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

17 (b) Law Enforcement. The Director shall notify the Police Department of all approved
18 permit applications.

19 **SEC. 29.3014. ISSUANCE OF ~~MESSAGE ESTABLISHMENT, SOLO PRACTITIONER~~**
20 **~~MESSAGE ESTABLISHMENT, OR OUTCALL MESSAGE SERVICE PERMIT, FOR PRACTITIONERS~~**
21 **~~NOT CERTIFIED BY THE CAMTC ESTABLISHMENT PERMIT.~~**

22 (a) Within ~~14 days following a hearing, or, if no hearing is held, within~~ 60 business days,
23 following receipt of a completed application for ~~a massage~~ an ~~e~~Establishment ~~permit, or, for~~
24 applications subject to referral under Section 29.28, within 30 days of receiving all written findings,
25 whichever is later, ~~solo practitioner massage establishment, or outcall massage service permit where~~

1 ~~one or more practitioners are not certified as a massage practitioner or therapist by the CAMTC~~
2 ~~pursuant to the California Business and Professions Code,~~ the Director shall either issue the permit
3 or mail a written statement of his or her reasons for denial thereof to the applicant. If the
4 Director takes neither action, the permit shall be deemed issued.

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

8 (c) No ~~massage e~~Establishment, ~~solo practitioner massage establishment, or outcall~~
9 massage service permit shall be issued if the Director finds:

10 (1) 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 (2) The facilities operation as proposed by the applicant would not comply with
13 all applicable laws including, but not limited to, the facilities requirements set forth in Section
14 29.27, the City Building, Planning, Housing, and Fire Codes, or any rule or regulation related to
15 massage facilities adopted by the Director pursuant to this Article 29; or

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

18 (4) Within five years immediately prior to the date of application, the applicant
19 has had any license, certificate, or permit related to the practice of ~~m~~Massage or operation of an
20 Establishment revoked; or

21 (5) The applicant ~~and any other individual who will be directly engaged in the~~
22 ~~management and operation of the massage establishment, solo practitioner massage establishment, or~~
23 ~~outcall massage service~~ has been eConvicted of, or is currently charged with, any of the following
24 offenses ~~or convicted of an offense outside the State of California that would have constituted any of~~
25 ~~the following offenses if committed within the State of California:~~

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

3 (B) Any misdemeanor sexual battery; or

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

5 (D) Pimping or pandering; or

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

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

10 (6) The Director revoked permission to operate a massage business at the same
11 location within the prior 12 months; or

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

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

17 (de) Discretionary Exception for Criminal Convictions. The Director may issue a permit
18 otherwise authorized under this Section to any ~~individual~~ Owner ~~e~~Convicted of one of the
19 offenses listed in ~~§~~subsubsection ~~(c)(5) (b)(4)~~ of this Section if the Director finds that the offense
20 was not violent, the conviction occurred at least five years prior to the date of application, and
21 the applicant has not been convicted subsequently of any of the listed ~~one of those~~ offenses.

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

1 (e) Sole Practitioners. Notwithstanding the provisions of Section 29.15, the Director
2 may issue a ~~sole~~ Sole pPractitioner ~~m~~Message eEstablishment permit authorizing more than
3 four ~~sole~~ Advanced mMessage pPractitioners or CAMTC Certified Practitioners to operate out of
4 the same ~~place of business~~ location if the Director finds good cause exists and the operation of
5 the ~~e~~Establishment will not have a negative impact on the neighborhood.

6 (f) Right to Director's Hearing. If an application for ~~a~~ an Establishment permit ~~authorized~~
7 ~~under this Section~~ is denied, and provided that the Director did not hold a hearing on the application
8 as provided in subsection (b) of this Section, the applicant may appeal the denial within 30 days ~~of the~~
9 ~~date~~ of receipt of the notice of denial, ~~the applicant may appeal the decision~~ by notifying the
10 Director in writing and explaining. ~~The notice shall set forth in detail~~ the ground or grounds for the
11 appeal. Within 30 days of receipt of the notice of appeal, the Director shall conduct a hearing
12 to consider the appeal. At least 10 days prior to the hearing, the Director shall notify the
13 applicant of the time and place of the hearing. The Director shall oversee the hearing, provide
14 the applicant an opportunity to speak at the hearing, and issue a ruling within 30 days of ~~its~~ the
15 conclusion of the hearing. If the Director fails to rule within this time period, the permit denial shall
16 be deemed sustained. The Director's ruling shall be the final decision of the Department.

17 **SEC. 29.30. BUSINESS TAX AND ZONING INFORMATION.**

18 When issuing or renewing an Establishment permit, the Director and the Tax Collector shall
19 provide the permit holder with general information, including appropriate referrals to other City
20 departments, regarding (1) the need and procedure for registering a business with the Tax Collector,
21 and (2) possible zoning restrictions on the operation of a massage business.

22 **SEC. 29.31. ESTABLISHMENT ANNUAL LICENSE FEE.**

23 Every Establishment permit holder shall pay to the Tax Collector an annual license fee as set
24 forth in Section 29.41.

25 **SEC. 29.15. EMPLOYMENT OF MASSAGE PRACTITIONERS.**

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

5 ~~SEC. 29.16. REGISTER OF EMPLOYEES.~~

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

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

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

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

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

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

21 **SEC. 29.32. ESTABLISHMENT OPERATING REQUIREMENTS.**

22 (a) Cleanliness and Hygiene. Every portion of the Establishment, including appliances and
23 apparatuses, shall be kept clean and operated in a sanitary condition.

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

1 (2) The Establishment shall provide clean laundered sheets and towels, launder them
2 after each use, and store them in a sanitary manner.

3 (3) No towels or sheets shall be laundered or dried in any Establishment unless the
4 Establishment has suitable laundry facilities.

5 (4) The Establishment shall provide smooth, cleanable, and appropriately labeled
6 receptacles for the storage of soiled linens and paper towels.

7 (5) The Establishment shall appropriately bag and dispose of soiled refuse.

8 (6) Every Establishment shall thoroughly clean its wet and dry heat rooms, shower
9 compartments, and toilet rooms each business day.

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

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

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

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

18 (e) Register of Practitioners. Every Establishment that hires or contracts with individuals to
19 provide Massage services shall ensure at all times that each such individual holds a valid and current
20 Massage Practitioner permit or CAMTC certificate. The Establishment shall maintain a register of
21 practitioners that includes each practitioner's permit or CAMTC certificate number, which shall be
22 available for inspection by the Department of Public Health at all times.

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

1 (g) Doors to Remain Unlocked. Interior and exterior doors shall remain unlocked while the
2 Establishment is open. Exterior doors may remain locked if the Establishment is owned by one
3 individual with no more than one employee or independent contractor.

4 (h) No Alcohol or Illegal Drugs Permitted on Premises. No alcoholic beverages or drugs may
5 be sold, served, used, or possessed on the premises during business hours. "Alcoholic beverage"
6 includes a mixture of one or more alcoholic beverages ingested separately or as a mixture as defined in
7 Section 23004 of the California Business and Professions Code. "Drug" shall include all narcotics,
8 drugs, or controlled substances as defined in Chapter 2 (commencing with Section 11053) of Division
9 10 of the California Health and Safety Code.

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

14 (j) Residential Use. No part of the Establishment premises shall be used as a sleeping room or
15 for any other residential purpose.

16 (k) Establishment Permit to be Displayed. Every permit to operate a Massage Establishment
17 or Sole Practitioner Massage Establishment shall be displayed in a conspicuous place within the
18 Establishment such that the permit may be readily seen by individuals entering the premises. Every
19 permit to operate an Outcall Massage Service must be made available for inspection by the Department
20 at all times while providing Massage services.

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

23 **SEC. 29.3319. INSPECTION.**

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

1 ~~purpose of determining that to determine whether~~ the eEstablishment is operating in compliance
2 with the provisions of state law or this Article 29, or for the purpose of providing health and
3 safety information to employees of the eEstablishment. Whenever possible, inspectors shall be
4 accompanied by a health outreach worker who is fluent in the primary language(s) spoken by the
5 employees of the Establishment. The Director shall adopt regulations ~~under Section 29.25~~
6 governing the use of double doors or other structural devices that interfere with reasonable
7 inspections and do not have legitimate safety or security purposes. (b)—Nothing in this
8 Section shall be construed to limit or restrict the lawful authority of a police officer or other City
9 employee to enter premises licensed under this Article 29. ~~(1) pursuant to a search warrant signed~~
10 ~~by a magistrate and issued upon a showing of probable cause to believe that contraband is present or~~
11 ~~that a crime has been committed or attempted, (2) without a warrant in the case of an emergency or~~
12 ~~other exigent circumstances, or (3) as part of any other lawful entry in connection with a criminal~~
13 ~~investigation or enforcement action.~~

14 ~~SEC. 29.20. MASSAGE ESTABLISHMENT, SOLO PRACTITIONER MASSAGE~~
15 ~~ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE LICENSE FEE.~~

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

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

1 **SEC. 29.3421. SUSPENSION OR REVOCATION OF MESSAGE ESTABLISHMENT**

2 ~~**PERMIT, SOLO PRACTITIONER MESSAGE ESTABLISHMENT, OR OUTCALL MESSAGE**~~
3 ~~**SERVICE PERMIT FOR PRACTITIONERS NOT CERTIFIED BY THE CAMTC.**~~

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

9 (1) Facts sufficient to support the denial of an Establishment permit on any ground set
10 ~~forth in Section 29.29; The permittee has violated any of the provisions of this Article;~~ or

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

13 (3) The permittee has engaged in any conduct in connection with the operation
14 of the business that violates the operating requirements set forth in Section 29.32, any rules or
15 regulations related to Establishment operations, or any state or local laws; or

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

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

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

4 (b) Hearing. An Establishment permit holder cited for a violation of any provision of Article
5 29 or the rules and regulations promulgated by the Director under Section 29.2 shall be scheduled to
6 appear at a hearing held by the Director. ~~Before any hearing is conducted under this Section, t~~The
7 Director shall provide the permittee at least 2010 days' written notice ~~of the~~. ~~The notice shall~~
8 ~~include the~~ time, place, and grounds for the hearing. If requested by permittee, the Director
9 shall make available all documentary evidence against permittee within two business days of the
10 request ~~no later than 15 days prior to the hearing~~. At the hearing, the permittee shall be provided
11 an opportunity to refute all evidence against him or her. The Director shall oversee the hearing
12 and issue a ruling within 2030 days of ~~the its~~ conclusion of the hearing. If the Director fails to
13 issue a ruling in this time period, no suspension or revocation shall be imposed. The Director's ruling
14 shall be the final decision of the Department.

15 (c) Summary Suspension. The Director may suspend summarily any massage
16 ~~e~~Establishment, ~~solo practitioner massage establishment, or outcall massage service~~ permit issued
17 under this Article pending a noticed revocation or suspension hearing ~~on revocation or suspension~~
18 when, in the opinion of the Director, the public health or safety requires such summary
19 suspension. ~~Any affected permittee~~ The Director shall provide written ~~be given~~ notice of such
20 summary suspension to the permit holder by hand delivery or registered mail. ~~in writing delivered~~
21 ~~to said permittee in person or by registered letter.~~

22 SEC. 29.22. HEARINGS.

23 The Director may fix a time and place for a hearing on any application for a permit under this
24 Article, which shall not be held more than 45 days after the receipt of the completed application, or, in
25

1 ~~the case of a permit to operate a massage establishment or solo massage practitioner establishment,~~
2 ~~more than 30 days after receiving the findings required under Section 29.13 of this Article.~~

3 ~~SEC. 29.23. TRANSFER OF PERMIT.~~

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

5 ~~SEC. 29.24. BUSINESS TAX AND ZONING INFORMATION, RESOURCES FOR MASSAGE~~
6 ~~PRACTITIONERS.~~

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

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

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

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

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

1 FEES

2 **SEC. 29.4026. MASSAGE PRACTITIONER FEES.**

3 (a) Required Fees. The application fee for a Massage Practitioner permit shall be \$146. The
4 annual license fee for a Massage Practitioner permit shall be \$123. The fee shall be due annually on
5 March 31 of each year, pursuant to Section 76.1, Article 2 of the Business and Tax Regulations Code.

6 (b) Exemption. A Massage Practitioner providing massage services under the direction of a
7 Non-profit Organization is exempt from annual license fees under this Article.

8 **SEC. 29.41. ESTABLISHMENT FEES.**

9 (a) Massage Establishments. The application fee for a ~~m~~Massage ~~e~~Establishment permit-
10 as provided in Section 29.11, shall be ~~\$681~~658. The annual license fee for a ~~m~~Massage
11 ~~e~~Establishment, as provided in Section 29.20, shall be ~~\$1,2141,173.~~ The ~~F~~fee shall be due
12 annually on March 31 of each year, pursuant to Section 76.1, Article 2 of the Business and
13 Tax Regulations Code.

14 (b) Sole Practitioner Massage Establishments. The application fee for a ~~sole~~ Sole
15 ~~p~~Practitioner ~~m~~Massage ~~e~~Establishment permit, as provided in Section 29.11, shall be ~~\$497~~480.
16 The annual license fee for a ~~sole~~ Sole ~~p~~Practitioner ~~m~~Massage ~~e~~Establishment, and for massage
17 establishments where all practitioners are certified by the CAMTC, as provided in Section 29.20, shall
18 be ~~\$599~~579. The ~~F~~fee shall be due annually on March 31 of each year, pursuant to Section
19 76.1, Article 2 of the Business and Tax Regulations Code.

20 (c) Outcall Massage Services. The application fee for an ~~e~~Outcall ~~m~~Massage ~~s~~Services
21 permit, as provided in Section 29.11, shall be ~~\$351~~480. The annual license fee for an ~~e~~Outcall
22 ~~m~~Massage ~~s~~Service, as provided in Section 29.20, shall be ~~\$306~~579. The ~~F~~fee shall be due
23 annually on March 31 of each year, pursuant to Section 76.1, Article 2 of the Business and
24 Tax Regulations Code.

25 (d) Exceptions.

1 (1) A Non-profit Organization is exempt from application and annual license fees under
2 this Article 29.

3 (2) The annual license fee shall be \$10 for any Establishment permit holder who is over
4 60 years old, does not employ others, and whose gross receipts from the Establishment for the previous
5 year were less than \$1,000.

6 (3) An ~~a~~Advanced ~~m~~Massage ~~p~~Practitioner ~~or~~ CAMTC Certified Practitioner,
7 holding a ~~sole~~ Sole ~~p~~Practitioner ~~m~~Massage ~~e~~Establishment permit, shall not be required to pay
8 any additional ~~permit~~ application or annual license fee for an ~~o~~Outcall ~~m~~Massage ~~s~~Service
9 permit.

10 **SEC. 29.42. ADJUSTMENT OF FEES.**

11 ~~(e)~~ Beginning with fiscal year 2008-2009, fees set forth in this Article may be adjusted
12 each year, without further action by the Board of Supervisors, ~~asset forth in this Section.~~ Not
13 later than April 1, the Director shall report to the Controller the revenues generated by the fees
14 for the prior fiscal year and the prior fiscal year's costs of operation, as well as any other
15 information that the Controller determines appropriate to the performance of the duties set
16 forth in this Section. Not later than May 15, the Controller shall determine whether the current
17 fees have produced or are projected to produce revenues sufficient to support the costs of
18 providing the services for which the fees are assessed and that the fees will not produce
19 revenue which is significantly more than the costs of providing the services for which the fees
20 are assessed. The Controller shall, if necessary, adjust the fees upward or downward for the
21 upcoming fiscal year as appropriate to ensure that the program recovers the costs of
22 operation without producing revenue which is significantly more than such costs. The adjusted
23 rates shall become operative on July 1.

24
25 **ENFORCEMENT AND PENALTIES**

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

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

5 (1) Massage Business Establishment Operating Without an Establishment
6 ~~Permit from the San Francisco Department of Public Health.~~

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

9 (B) Permit penalty: Business location and Owner of massage business
10 ~~Revocation, and Massage Establishment location and permittee are~~ ineligible for an Establishment
11 ~~new permit from the San Francisco Department of Public Health~~ for 180 days.

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

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

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

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

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

20 (23) ~~Massage~~ Establishment Employing Any Person Under 18 Years of Age
21 ~~Underage Practitioner as Defined in Section 29.17.~~

22 (A) Administrative fine: None.

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

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

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

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

9 (B) Permit penalty: Mandatory 60-120 days suspension of ~~Massage~~
10 Establishment permit.

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

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

16 (A) Administrative fine: None.

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

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

20 (56) Establishment Knowingly Employing Unlicensed or Uncertified Individual
21 Without Massage Practitioner Permit or CAMTC Certification To Administer ~~Massage Practitioner~~
22 ~~or Therapist~~.

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

25 (B) Permit penalty: None.

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

4 (67) Establishment Used for Residential Sleeping Purposes, ~~Without~~
5 ~~Authorization by the City and County of San Francisco Director of Public Health.~~

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

7 (B) Permit penalty: None.

8 (C) Repeat violations: 15-30 days suspension and up to \$2,500 fine
9 ~~and~~ for ~~2nd~~second occurrence within 24 months; 30-60 days suspension and up to \$5,000 fine
10 for ~~3rd~~third occurrence within 24 months.

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

12 (A) Administrative fine: None.

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

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

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

19 (A) Administrative fine: Up to \$250 per person to be paid by ~~Massage~~
20 ~~Establishment permittee,~~ ~~and,~~

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

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

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

2 (A) Administrative fine: None.

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

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

6 (1011) ~~Massage~~ Establishment Operating ~~Past~~ Between the Hours of 10:00 p.m.
7 and 7:00 a.m.

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

9 (B) Permit penalty: None.

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

13 (1112) Practicing Massage for Compensation Without a Massage Practitioner
14 Permit or CAMTC Certification.

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

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

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

21 (1213) Anyone Engaged In Lewd Conduct or Performing Sex Acts as Defined in
22 Section 29.12(h)17(b) on ~~Massage~~ Establishment Premises ~~During Business Hours~~.

23 (A) Administrative fine: \$1,000 to be paid by ~~Massage~~ Establishment
24 permittee, and

1 (B) Permit penalty: 60-day ~~permit~~ suspension of ~~Massage~~ Establishment
2 permit.

3 (C) Repeat violations: ~~Permit~~ Revocation of *Massage Practitioner permit*
4 and both practitioner and *Massage* Establishment permittee. *Permit holder permanently ineligible*
5 for subsequent *Massage Practitioner or Establishment Permit*.

6 (1314) Failure to Post Notices as Required by Section 29.124)32(i).

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

9 (B) Permit Penalty: 30-day suspension of *Establishment permit* for third
10 and subsequent violations within 24 months.

11 (1415) All Other Violations of San Francisco Health Code Article 29, and Any
12 Massage Program Rules and Regulations.

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

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

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

18 (b) Notice to Property Owner. Written notice of each Establishment permit holder violation
19 shall be provided to the owner(s) of the property upon which the ~~Massage~~ Establishment is
20 located.

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

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

1 **SEC. 29.4628. COST RECOVERY.**

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

11 **SEC. 29.4729. VIOLATIONS AND CRIMINAL PENALTIES.**

12 (a) Criminal Violations. Any Establishment permit holder that violates the requirements of
13 Section 29.10, 29.15, 29.25, or subsections (d), (e), (j), (k), or (l) of Section 29.32 Any permittee, as
14 defined in Section 29.1, of a massage establishment or outcall massage service or any employer of a
15 massage practitioner who violates Health Code Section 29.2 which requires a permit to engage in the
16 practice of massage, Health Code Section 29.6 which requires presentation of an identification card to
17 any City health inspector, Health Code Section 29.10 which requires practitioners not certified by the
18 CAMTC pursuant to the California Business and Professions Code to obtain a permit to operate a
19 massage establishment, solo practitioner massage establishment, or outcall massage service, Health
20 Code Section 29.12(g) which prohibits the use of any room in which massage services are provided to
21 be used as a sleeping room, Health Code Section 29.15 which requires every permit holder or employer
22 to ensure that a massage practitioner, who is not certified by the CAMTC, has obtained a permit,
23 Health Code Section 29.16 which requires a register of practitioners to be available for inspection,
24 Health Code Section 29.17 which prohibits the employment of any individual under the age of 18,
25 Health Code Section 29.18, which requires display of a permit and prohibits operation between the

1 *hours of 10 p.m. and 7 a.m., or any rule or regulation adopted pursuant to Section 29.25*, shall be
2 guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000
3 or by imprisonment in the County Jail not to exceed six months, or by both. A person
4 convicted of violating *any listed this* Section shall be deemed guilty of a separate offense for
5 every day such violation shall continue.

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

8 **SEC. 29.48~~30~~. COOPERATIVE EFFORTS WITH LAW ENFORCEMENT.**

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

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

16 **SEC. 29.49~~31~~. UNDERTAKING FOR THE GENERAL WELFARE~~DISCLAIMER~~.**

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

22 **SEC. 29.50~~32~~. SEVERABILITY.**

23 If any of the provisions of this Article 29 or the application thereof to any person or
24 circumstance is held invalid, the remainder of this Article, including the application of such part
25 or provisions to persons or circumstances other than those to which it is held invalid, shall not

1 be affected thereby and shall continue in full force and effect. To this end, the provisions of
2 this Article are severable.

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

4 Nothing in this Article 29 shall be interpreted or applied so as to create any requirement,
5 power, or duty in conflict with any federal or state law.

6
7 Section 2. Effective Date. This ordinance shall become effective 30 days after
8 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
9 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
10 of Supervisors overrides the Mayor’s veto of the ordinance.

11 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
15 additions, and Board amendment deletions in accordance with the “Note” that appears under
16 the official title of the ordinance.

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

20 By: _____
21 Sherri Sokeland Kaiser
22 Deputy City Attorney

23
24
25
n:\legana\as2014\1500236\00977805.docx