

FILE NO. 030995

ORDINANCE NO. 269-03

1 [Repealing Article 27 of the Police Code and adding a new Article 29 to the Health Code,
2 providing for the licensing and regulation of massage practitioners and businesses.]

3 **Ordinance amending the San Francisco Police Code by repealing Article 27 (Sections**
4 **2700 through 2737), and amending the San Francisco Health Code by adding a new**
5 **Article 29 (Sections 1900 through 1931), both Articles providing for the licensing and**
6 **regulation of massage practitioners and businesses, and establishing an operative**
7 **date for the ordinance.**

8 Note: Additions are single-underline italic Times New Roman;
9 deletions are ~~strikethrough italic Times New Roman~~
10 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

12
13 Section 1. The San Francisco Police Code is hereby amended by repealing Article 27
14 (Sections 2700 through 2737) in its entirety.

15
16 Section 2. The San Francisco Health Code is hereby amended by adding Article 29
17 (Sections 1900 through 1931), to read as follows:

18 **SEC. 1900. DEFINITIONS.**

19 For the purposes of this Article:

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

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

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

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

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

8 (f) "Massage practitioner" means any individual who, for any monetary consideration
9 whatsoever, engages in the practice of massage. "Massage practitioner" shall include both general
10 massage practitioners and advanced massage practitioners, as provided in Section 1901.

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

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

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

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

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

8 (l) "Solo practitioner massage establishment" means a fixed place of business where a person
9 holding an advanced massage practitioner permit engages in or carries on, or permits to be engaged in
10 or carried on, the practice of massage. Said fixed place of business may be shared by two to four
11 advanced massage practitioners, or two to four advanced massage practitioners and one or more
12 health or healing arts practitioners, except as otherwise provided pursuant to Section 1913(e).

13
14 **SEC. 1901. PERMIT REQUIRED FOR MASSAGE PRACTITIONER; EXEMPTIONS.**

15 (a) It shall be unlawful for any individual to engage in the practice of massage without first
16 obtaining a permit from the Director.

17 (b) An individual may receive a permit as either a general massage practitioner or an
18 advanced massage practitioner, as provided in Section 1902. As used in this Article, the term
19 "massage practitioner" shall refer to both general massage practitioners and advanced massage
20 practitioners, unless otherwise specifically provided in the ordinance.

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

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

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

10
11 **SEC. 1902. APPLICATION FOR MASSAGE PRACTITIONER PERMIT; GENERAL AND**
12 **ADVANCED PRACTITIONERS.**

13 (a) Every applicant for a massage practitioner permit shall file an application with the Director
14 upon a form provided by the Director and pay a non-refundable application fee, as set forth in Section
15 1927.

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

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

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

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

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

24 (5) Business, occupation or employment of the applicant for the five years immediately
25 prior to the date of application; this information shall include, but not be limited to, a statement

1 as to whether or not the applicant, in working as a massage practitioner or bodywork
2 technician or similar occupation under a permit or license, has had such permit or license
3 revoked or suspended, and the reasons therefor; and,

4 (6) All felony or misdemeanor convictions.

5 (c) An applicant for a general massage practitioner permit shall provide, as part of the
6 application, the name and address of the recognized school for massage attended, the dates attended,
7 and the original of the diploma or certificate of graduation awarded the applicant showing that the
8 applicant has completed not less than 100 hours of instruction.

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

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

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

22
23 **SEC. 1903. ISSUANCE OF MASSAGE PRACTITIONER PERMIT.**

24 (a) Within 14 days following a hearing, or, if no hearing is held, within 60 business days
25 following receipt of a completed application for a massage practitioner permit, the Director shall

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

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

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

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

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

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

11 (i) Any felony involving the use of coercion or force and violence upon another
12 person; or

13 (ii) Any misdemeanor sexual battery; or

14 (iii) Any offense involving sexual misconduct with children; or

15 (iv) Any offense requiring registration pursuant to Section 290 of the California
16 Penal Code.

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

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

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

3
4 **SEC. 1904. TEMPORARY MASSAGE PRACTITIONER PERMIT; TRAINEE PERMIT.**

5 (a) Upon completion and submission of an application for a massage practitioner permit as
6 required in Section 1902 of this Article, and upon payment of all fees for the permit, an applicant may
7 request a temporary massage practitioner permit. If requested, the Director shall issue the temporary
8 massage practitioner permit which is valid for the period during which the application is under review,
9 but in no event for more than 60 days. The Director may revoke the permit at any time if he or she
10 finds that the applicant has failed to meet any of the requirements of Section 1903 of this Article.

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

15
16 **SEC. 1905. IDENTIFICATION CARD.**

17 The Director shall provide all massage practitioners granted a permit with an identification
18 card. The identification card must be presented to any City health inspector upon request at all times
19 during the regular business hours of any massage establishment or solo practitioner massage
20 establishment.

21
22 **SEC. 1906. MASSAGE PRACTITIONER LICENSE FEE.**

23 Every massage practitioner shall pay to the Tax Collector an annual license fee, as set forth in
24 Section 1927.

1 SEC. 1907. REVOCATION OF MASSAGE PRACTITIONER PERMIT.

2 (a) The Director may revoke or suspend any massage practitioner permit, after a public
3 hearing, if the Director finds:

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

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

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

8 (4) The massage practitioner has violated a rule or regulation adopted by the Director
9 pursuant to Section 1926.

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

17 (c) The Director may suspend summarily any massage practitioner permit issued under this
18 Article pending a noticed hearing on revocation or suspension when in the opinion of the Director the
19 public health or safety requires such summary suspension. Any affected permittee shall be given notice
20 of such summary suspension in writing delivered to said permittee in person or by registered letter.

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1 SEC. 1908. PERMIT REQUIRED FOR A MASSAGE ESTABLISHMENT, SOLO
2 PRACTITIONER MASSAGE ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE;
3 EXEMPTIONS.

4 (a) It shall be unlawful for any person to engage in, conduct, or carry on, or to permit to be
5 engaged in, conducted, or carried on, in or upon any premises in the City the operation of a massage
6 establishment, solo practitioner massage establishment, or outcall massage service without first
7 obtaining a permit from the Director.

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

14 (c) A permit shall not be required under this Section where the services are provided on the
15 premises (1) by a licensed or certificated health care practitioner, or (2) by a barber, cosmetologist,
16 esthetician, or manicurist, licensed or certificated pursuant to Division 3, Chapter 10, of the California
17 Business and Professions Code, practicing massage as part of his or her work as a barber,
18 cosmetologist, esthetician, or manicurist, and within the scope of any relevant state restrictions on the
19 practice of massage by members of those professions. A non-profit organization providing massage
20 services on its premises, and the individuals providing the massage services, are exempt from permit
21 and license fees under this Article, but the organization and the individuals must obtain the necessary
22 permits and licenses and otherwise comply with all relevant requirements.

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1 SEC. 1909. APPLICATION FOR MASSAGE ESTABLISHMENT, SOLO PRACTITIONER
2 MASSAGE ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE PERMIT.

3 (a) Every applicant for a massage establishment, solo practitioner massage establishment, or
4 outcall massage service permit shall file an application with the Director upon a form provided by the
5 Director and pay a non-refundable application fee, as set forth in Section 1927.

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

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

8 (2) The address of the proposed place of business and facilities thereof;

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

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

13 (5) Any history of previous massage permits or licenses in San Francisco or elsewhere,
14 including whether any such permit or license has been revoked and the reasons therefor, for
15 each applicant; and

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

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

20 (d) If an applicant for a massage establishment or outcall massage service permit is a
21 corporation, the name of the corporation shall be set forth exactly as shown in its articles of
22 incorporation together with the names and residence addresses of each of the officers, directors, and
23 each stockholder holding more than 10 percent of the stock of the corporation. If the application is a
24 partnership, the application shall set forth the name and the residence address of each of the partners,
25 including limited partners. If one or more of the partners is a corporation, the provisions of this

1 Section pertaining to corporate applicants applies. The same permit and criminal history information
2 required of individual applicants shall be provided for each officer, director, and stockholder holding
3 more than 10 percent of the stock of the corporation, or for each partner, including limited partners.

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

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

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

11
12 **SEC. 1910. FACILITIES NECESSARY FOR MASSAGE ESTABLISHMENT.**

13 No permit to conduct a massage establishment shall be issued unless an inspection by the
14 Director reveals that the massage establishment complies with each of the following requirements:

15 (a) Construction of rooms used for toilets, tubs, steam baths, and showers shall be made
16 waterproof with hard nonabsorbent materials which are easily cleaned and shall be installed in
17 accordance with the San Francisco Building Code. Plumbing fixtures shall be installed in accordance
18 with the San Francisco Plumbing Code.

19 (1) For toilet rooms, toilet room vestibules, and rooms containing bathtubs, there shall
20 be a waterproof floor covering, which will be carried up all walls to a height of at least five
21 inches. Floors shall be coved at the juncture of the floor and wall with a 3/8 inch minimum
22 radius coving.

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

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

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

6 (b) Toilet facilities shall be provided in convenient locations. When five or more employees or
7 patrons of different genders are on the premises at the same time, separate toilet facilities shall be
8 provided. A single toilet shall be provided for each 15 or more persons of the same gender on the
9 premises at any one time. Urinals may be substituted for toilets after one toilet has been provided.
10 Doors to toilet rooms shall open inward and be self-closing. Toilet rooms shall be designated as to the
11 gender accommodated therein.

12 (c) Lavatories or wash basins with both hot and cold running water shall be installed in either
13 the toilet room or the vestibule. Lavatories or wash basins must have soap in a dispenser and sanitary
14 towels.

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

23 (e) All electrical equipment shall be installed in accordance with the requirements of the San
24 Francisco Electrical Code.

1 **SEC. 1911. FACILITIES NECESSARY FOR SOLO PRACTITIONER MASSAGE**

2 **ESTABLISHMENT.**

3 No permit to conduct a solo practitioner massage establishment shall be issued unless an
4 inspection by the Director reveals that the solo practitioner massage establishment complies with each
5 of the following requirements:

6 (a) Toilet facilities shall be provided for patrons.

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

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

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

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

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

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

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

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

22
23 **SEC. 1912. REFERRAL OF PERMIT APPLICATION TO OTHER DEPARTMENTS.**

24 The Director, within 10 days of receiving an application for a permit to operate a massage
25 establishment or solo practitioner massage establishment permit, shall refer the application to the City

1 Department of Building Inspection and the City Police, Fire, and Planning Departments. Said
2 departments shall inspect the premises proposed to be operated as a massage establishment or a solo
3 practitioner massage establishment and shall make written findings to the Director concerning
4 compliance with codes that they administer.

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

6
7 **SEC. 1913. ISSUANCE OF MASSAGE ESTABLISHMENT, SOLO PRACTITIONER MASSAGE**
8 **ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE PERMIT.**

9 (a) Within 14 days following a hearing, or, if no hearing is held, within 60 business days
10 following receipt of a completed application for a massage establishment, solo practitioner massage
11 establishment, or outcall massage service permit, the Director shall either issue the permit or mail a
12 written statement of his or her reasons for denial thereof to the applicant. If the Director takes neither
13 action, the permit shall be deemed issued.

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

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

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

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

22 (4) The applicant and any other individual who will be directly engaged in the
23 management and operation of the massage establishment, solo practitioner massage
24 establishment, or outcall massage service has been convicted of any of the following offenses or
25

1 convicted of an offense outside the State of California that would have constituted any of the
2 following offenses if committed within the State of California:

3 (i) Any felony involving the use of coercion or force and violence upon another
4 person; or

5 (ii) Any misdemeanor sexual battery; or

6 (iii) Any offense involving sexual misconduct with children; ~~or~~

7 (iv) Pimping or pandering; or,

8 (v) Any offense requiring registration pursuant to Section 290 of the California
9 Penal Code.

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

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

18 (e) Notwithstanding the provisions of Section 1900(l), the Director may issue a solo practitioner
19 massage establishment permit authorizing more than four solo massage practitioners to operate out of
20 the same place of business if the Director finds good cause exists and the operation of the establishment
21 will not have a negative impact on the neighborhood.

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

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

4
5 **SEC. 1914. OPERATING REQUIREMENTS FOR MASSAGE ESTABLISHMENT.**

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

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

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

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

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

1 **SEC. 1915. EMPLOYMENT OF MASSAGE PRACTITIONERS.**

2 It shall be the responsibility of every permittee for a massage establishment or outcall massage
3 service, or the employer of any individual purporting to act as a massage practitioner, to ensure that
4 such individual has obtained a permit pursuant to this Article.

5
6 **SEC. 1916. REGISTER OF EMPLOYEES.**

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

11
12 **SEC. 1917. EMPLOYMENT OF PERSONS UNDER THE AGE OF 18 PROHIBITED.**

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

15
16 **SEC. 1918. DISPLAY OF PERMIT; HOURS OF OPERATION.**

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

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

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1 **SEC. 1919. INSPECTION.**

2 (a) Any member of the Department of Public Health may make an inspection of any massage
3 establishment or solo practitioner massage establishment in the City for the purpose of determining
4 that the establishment is in compliance with the provisions of this Article or for the purpose of
5 providing health and safety information to employees of the establishment. The Director shall adopt
6 regulations under Section 1926 governing the use of double doors or other structural devices that
7 interfere with reasonable inspections and do not have legitimate safety or security purposes.

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

14
15 **SEC. 1920. MASSAGE ESTABLISHMENT, SOLO PRACTITIONER MASSAGE**
16 **ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE LICENSE FEE.**

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

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

1
2 **SEC. 1921. REVOCATION OF MASSAGE ESTABLISHMENT, SOLO PRACTITIONER**
3 **MASSAGE ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE PERMIT.**

4 (a) The Director may revoke or suspend any massage establishment, solo practitioner massage
5 establishment, or outcall massage service permit, after a hearing, if the Director finds:

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

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

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

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

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

19 (6) The permittee has violated a rule or regulation adopted by the Director pursuant to
20 Section 1926.

21 (b) Before any hearing is conducted under this Section, the Director shall provide the permittee
22 at least 20 days written notice. The notice shall include the time, place, and grounds for the hearing. If
23 requested by permittee, the Director shall make available all documentary evidence against permittee
24 no later than 15 days prior to the hearing. At the hearing, the permittee shall be provided an
25

1 opportunity to refute all evidence against him or her. The Director shall oversee the hearing and issue
2 a ruling within 20 days of its conclusion. The Director's ruling shall be final.

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

8
9 **SEC. 1922. HEARINGS.**

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

14
15 **SEC. 1923. TRANSFER OF PERMIT.**

16 No permit issued under this Article shall be transferable.

17
18 **SEC. 1924. EXISTING PERMITS.**

19 (a) All persons who possess outstanding massage establishment, outcall massage service, or
20 masseur or masseuse permits on the effective date of this ordinance must surrender and exchange any
21 such permits for new permits within ninety (90) days of the effective date of this ordinance. Any such
22 surrender and exchange shall be without fee to the permittee. From and after the ninety-first (91st) day
23 after the effective date of this ordinance, all permits not surrendered and exchanged for new permits
24 shall be void and continuance of operation under any such void permits shall be a violation of this

1 Article. However, until issuance of the new permit, all existing permits are subject to the rules and
2 regulations in effect at the time of the issuance of the permits.

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

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

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

18
19 **SEC. 1925. BUSINESS TAX AND ZONING INFORMATION; RESOURCES FOR MASSAGE**
20 **PRACTITIONERS.**

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

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

5
6 **SEC. 1926. RULES AND REGULATIONS; COMPLAINT LINE.**

7 (a) The Director, after a noticed public hearing, may adopt rules and regulations to carry out
8 the provisions of this Article. Such rules and regulations shall take effect 15 days after the meeting.
9 Violation of any such rule or regulation may be grounds for administrative action against the
10 permittee, including suspension or revocation of the permit as provided in Sections 1907 and 1921 or
11 an administrative fine as provided in Section 1928, but the Director shall whenever possible give the
12 permittee a reasonable opportunity to cure the violation before seeking penalties.

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

15
16 **SEC. 1927. FEES.**

17 (a) The application fee for a massage practitioner permit, as provided in Section 1902, shall be
18 \$100.00. The annual license fee for a massage practitioner, as provided in Section 1906, shall be
19 \$75.00.

20 (b) The application fee for a massage establishment, as provided in Section 1909, shall be
21 \$240.00. The annual license fee for a massage establishment, as provided in Section 1920, shall be
22 \$600.

23 (c) The application fee for a solo practitioner massage establishment, as provided in Section
24 1909, shall be \$240. The annual license fee for a solo practitioner massage establishment, as provided
25 in Section 1920, shall be \$400.

1 (d) The application fee for an outcall massage services permit, as provided in Section 1909,
2 shall be \$240.00. The annual license fee for an outcall massage service, as provided in Section 1920,
3 shall be \$200.

4 (e) An advanced massage practitioner holding a solo practitioner massage establishment
5 permit shall not be required to pay any additional permit or annual license fee for an outcall massage
6 service permit.

7 (f) Beginning with fiscal year 2004-2005, fees set in this Section may be adjusted each year,
8 without further action by the Board of Supervisors, to reflect changes in the relevant Consumer Price
9 Index, as determined by the Controller.

10 No later than April 15th of each year, the Health Department shall submit its current fee
11 schedule to the Controller, who shall apply the price index adjustment to produce a new fee schedule
12 for the following year.

13 No later than May 15th of each year, the Controller shall file a report with the Board of
14 Supervisors reporting the new fee schedule and certifying that: (a) the fees produce sufficient revenue
15 to support the costs of providing the services for which each fee is assessed, and (b) the fees do not
16 produce revenue which is significantly more than the costs of providing the services for which each fee
17 is assessed.

18
19 **SEC. 1928. VIOLATIONS AND PENALTIES.**

20 (a) Any person who violates any provision of this Article or any rule or regulation adopted
21 pursuant to Section 1926 may, after being provided notice and an opportunity to be heard, be subject to
22 an administrative fine not to exceed \$1,000 for the first violation of a rule or regulation in a twelve-
23 month period, \$2,500 for the second violation of the same rule or regulation in a twelve-month period,
24 and \$5,000 for the third and subsequent violations of the same rule or regulation in a twelve-month
25 period; provided, however, that the schedule of administrative fines for a massage practitioner shall be

1 as follows: not to exceed \$250 for the first violation of a rule or regulation in a twelve-month period,
2 \$500 for the second violation of the same rule or regulation in a twelve-month period, and \$1,000 for
3 the third and subsequent violations of the same rule or regulation in a twelve-month period.

4 (b) Any permittee who knowingly employs a massage practitioner who is not in possession of a
5 valid permit or who allows such a massage practitioner to perform, operate, or practice in the
6 permittee's place of business may, after being provided notice and an opportunity to be heard, be
7 subject to an administrative fine not to exceed \$1,000 for the first violation in a twelve-month period,
8 \$2,500 for the second violation in a twelve-month period, and \$5,000 for the third and subsequent
9 violations in a twelve-month period.

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

12 (d) Nothing in this Section shall preclude the prosecution of anyone under any of the laws of
13 the State of California.

14
15 **SEC. 1929. COOPERATIVE EFFORTS WITH LAW ENFORCEMENT.**

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

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

23
24 / / /

25 / / /

1 **SEC. 1930. DISCLAIMER.**

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

6
7 **SEC. 1931. SEVERABILITY.**

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

12
13 Section 3. The provisions of this ordinance shall take effect six months after the date
14 the Mayor signs the ordinance or on which the ordinance becomes law without the Mayor's
15 signature.

16
17
18 APPROVED AS TO FORM:

19 DENNIS J. HERRERA, City Attorney

20
21
22 By:


THOMAS J. OWEN
Deputy City Attorney



City and County of San Francisco

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

Tails Ordinance

File Number: 030995

Date Passed:

Ordinance amending the San Francisco Police Code by repealing Article 27 (Sections 2700 through 2737), and amending the San Francisco Health Code by adding a new Article 29 (Sections 1900 through 1931), both Articles providing for the licensing and regulation of massage practitioners and businesses, and establishing an operative date for the ordinance.

November 18, 2003 Board of Supervisors — PASSED ON FIRST READING

Ayes: 9 - Daly, Dufty, Gonzalez, Ma, Maxwell, McGoldrick, Newsom, Peskin,
Sandoval

Noes: 1 - Hall

Excused: 1 - Ammiano

November 25, 2003 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Ammiano, Dufty, Gonzalez, Ma, Maxwell, McGoldrick, Newsom,
Peskin, Sandoval

Noes: 1 - Hall

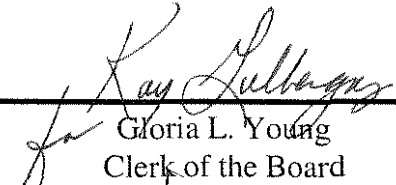
Excused: 1 - Daly

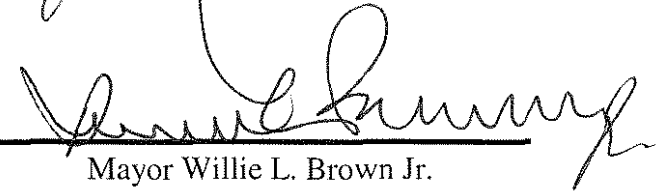
File No. 030995

I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on November 25, 2003 by the Board of Supervisors of the City and County of San Francisco.

DEC 05 2003

Date Approved


Gloria L. Young
Clerk of the Board


Mayor Willie L. Brown Jr.