

**City of Carson City
Agenda Report**

Date Submitted: May 12, 2009

Agenda Date Requested:
May 21, 2009
Time Requested: 5 mins

To: Carson City Board of Supervisors

From: Carson City Health & Human Services

Subject Title: ACTION TO INTRODUCE ON FIRST READING, BILL NO. _____,
AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 4
LICENSES AND BUSINESS REGULATIONS, BY REPEALING CHAPTER 4.29,
MESSAGE ESTABLISHMENTS, AND OTHER MATTERS PROPERLY
RELATED THERETO.

Staff Summary: This action will repeal Chapter 4.29 of the Carson City Municipal Code, Massage Establishments.

Type of Action Requested: (check one)
 Resolution Ordinance
 Formal Action/Motion Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I MOVE TO INTRODUCE ON FIRST READING, BILL NO. _____, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 4 LICENSES AND BUSINESS REGULATIONS, BY REPEALING CHAPTER 4.29, MESSAGE ESTABLISHMENTS, AND OTHER MATTERS PROPERLY RELATED THERETO.

Explanation for Recommended Board Action: This ordinance repeals Chapter 4.29 of the Carson City Municipal Code. CCMC Chapter 4.29 solely pertains to regulating massage establishments in Carson City. When CCMC Chapter 4.29 was enacted, Carson City Health & Human Services regulated all massage establishments located in Carson City. Several years ago the Nevada State Board of Massage Therapy was created to regulate all massage establishments in Nevada. Therefore, CCMC Chapter 4.29 is unnecessary and should be repealed.

Applicable Statute, Code, Policy, Rule or Regulation: CCMC Chapter 4.29
Fiscal Impact: None
Funding Source: None
Supporting Material: Ordinance

Prepared By: Thoran Towler

Reviewed By:



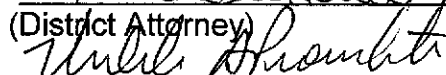
(City Manager)

Date: 5/12/09



(District Attorney)

Date: 5-12-09



(Finance Director)

Date: 5/12/09

Board Action Taken:

Motion: _____	1) _____	Aye/Nay
	2) _____	_____

(Vote Recorded By)

1 ORDINANCE NO. _____

2 BILL NO. _____

3 AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE
4 TITLE 4 LICENSES AND BUSINESS REGULATIONS, BY
5 REPEALING CHAPTER 4.29, MESSAGE ESTABLISHMENTS,
AND OTHER MATTERS PROPERLY RELATED THERETO.

6 THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

7 SECTION I:

8 That Chapter 4.29, Message Establishments, of the Carson City Municipal Code is
9 hereby Repealed as follows:

10 **Title 4 LICENSES AND BUSINESS REGULATIONS**

11 Chapter 4.04 BUSINESS LICENSES

12 Chapter 4.05 SURCHARGE FOR ENHANCEMENT OR IMPROVEMENT OF
13 TELEPHONE SYSTEM USED FOR REPORTING EMERGENCIES

14 Chapter 4.08 ROOM RENTAL TAX

15 Chapter 4.13 LIQUOR BOARD AND LIQUOR LICENSING AND SALES

16 Chapter 4.14 GAMING LICENSES AND REGULATIONS

17 Chapter 4.16 SOLICITORS AND CANVASSERS

18 Chapter 4.25 TRANSIENT FACILITY CHILD-TENDING AGENCIES

19 Chapter 4.27 BICYCLES*

20 Chapter 4.28 ASSEMBLIES

21 [~~Chapter 4.29 MESSAGE ESTABLISHMENTS*~~] Reserved

22 Chapter 4.30 INVASIVE BODY DECORATION ESTABLISHMENTS

23 SECTION II:

24
25 That Chapter 4.29, Message Establishments, of the Carson City Municipal Code is
26 hereby repealed as follows:

27 [~~Chapter 4.29 MESSAGE ESTABLISHMENTS*~~]

28 [~~Note to Chapter 4.29~~]

- 1 [4.29.010 Title.]
2 [4.29.020 Definitions.]
3 [4.29.030 Board of massage examiners.]
4 [4.29.040 License required.]
5 [4.29.050 Investigation fee.]
6 [4.29.060 Application for license.]
7 [4.29.070 Investigation by sheriff's office.]
8 [4.29.080 Inspection by health department.]
9 [4.29.090 Examination by board.]
10 [4.29.100 Business license.]
11 [4.29.110 Right of inspection.]
12 [4.29.120 Display of license or identification card.]
13 [4.29.130 Employment restrictions.]
14 [4.29.140 Operating requirements.]
15 [4.29.150 Prohibited massage.]
16 [4.29.160 Revocation of license.]
17 [4.29.170 Revocation procedure.]
18 [4.29.180 Exception to revocation procedure.]
19 [4.29.190 Review by board of supervisors.]
20 [4.29.195 Applicability of regulations to existing businesses.]
21 [4.29.200 Exemptions.]
22 [4.29.210 Fees for testing and other services.]

23 SECTION III:

24 That Note to Chapter 4.29 of the Carson City Municipal Code is repealed as follows:

25 [Note to Chapter 4.29]

26 [* Prior ordinance history: Ords. 1982-29, 1984-29 and 1988-9.]

27 SECTION IV:

1 That Section 4.29.010 of the Carson City Municipal Code is hereby repealed as
2 follows:

3 [~~4.29.010 Title.~~]

4 [~~This chapter shall be known and may be cited in all proceedings as the massage
5 establishment ordinance. (Ord. 1997-33 § 1 (part), 1997).~~]

6 SECTION V:

7 That Section 4.29.020 of the Carson City Municipal Code is hereby repealed as
8 follows:

9 [~~4.29.020 Definitions.~~]

10 [~~As used in this chapter, the following words and phrases shall have the meanings set forth in
11 this section:~~

12 (a) "~~Massage.~~" The act of rubbing, kneading or otherwise touching the human body with the
13 hands, feet or any device, as to stimulate circulation or make muscles supple, for a fee,
14 gratuity or other consideration. The term "massage" does not include acts, treatments or
15 services within the meanings of "practice of medicine," "osteopathy," "chiropractic," "physical
16 therapy" or "naturopathic healing" as defined by the Nevada Revised Statutes. The term
17 massage includes, but not limited to, therapeutic massage, body massage, body work and
18 body rub.

19 (b) "~~Massage establishment.~~" A business establishment which provides massages on its
20 premises for a fee, gratuity or other consideration.

21 (c) "~~Massage therapist.~~" Any individual who administers massages.

22 (d) "~~Manager.~~" Any person, other than the owner, who is employed to manage a massage
23 establishment.

24 (e) "~~Person.~~" Any individual, firm, association, partnership, corporation or other entity.

25 (f) "~~Licensee.~~" The person to whom a license has been issued to own, operate or manage a
26 massage establishment or administer massages.

27 (g) "~~Board.~~" The Carson City board of massage examiners.

28 (h) "~~Employer.~~" Every licensee who has in service any manager or massage technician under
a contract of hire, express or implied, oral or written.

(i) "~~Employee.~~" Every manager or massage therapist in the service of any employer under a
contract of hire, express or implied, oral or written.

(j) "~~Independent Massage Therapist.~~" Any individual who performs massages at a location
convenient to the customer other than the massage establishment. (~~Ord. 1997-33 § 1 (part),
1997.~~)]

SECTION VI:

That Section 4.29.030 of the Carson City Municipal Code is hereby repealed as
follows:

[~~4.29.030 Board of massage examiners.~~]

1 ~~[1. The board of massage examiners, which is hereby created, shall be composed of the~~
2 ~~sheriff or his designee, the health department director or his designee, a citizen of Carson~~
3 ~~City and two (2) massage technicians who must be residents of Carson City and licensed in~~
4 ~~accordance with the provisions of this chapter.~~

5 ~~2. The sheriff and the health department director shall serve on the board while they are in~~
6 ~~office. The other members shall be appointed by the board of supervisors for terms of two (2)~~
7 ~~years. (Ord. 1997 33 § 1 (part), 1997).]~~

8 SECTION VII:

9 That Section 4.29.040 of the Carson City Municipal Code is hereby repealed as
10 follows:

11 ~~[4.29.040 License required.]~~

12 ~~[1. It shall be unlawful for any person, to own, operate or manage a massage establishment,~~
13 ~~or administer massage, without first applying for and obtaining a license in accordance with~~
14 ~~this chapter.~~

15 ~~2. Any person who has a massage license in good standing from Reno, Nevada, Sparks,~~
16 ~~Nevada, Washoe County, Nevada and/or Douglas County, Nevada shall be given reciprocity~~
17 ~~for compliance with subsection 1 of this section so long as the original massage license is~~
18 ~~kept in good standing and so long as the licensing jurisdiction grants reciprocity to persons~~
19 ~~who have massage licenses in good standing from Carson City, Nevada. Any massage~~
20 ~~license issued pursuant to reciprocity shall be subject to all other provisions of this code.~~

21 ~~3. Violation of this section shall be punishable as prescribed in Section 1.08.010 of this code.~~
22 ~~(Ord. 1997 33 § 1 (part), 1997).]~~

23 SECTION VIII:

24 That Section 4.29.050 of the Carson City Municipal Code is hereby repealed as
25 follows:

26 ~~[4.29.050 Investigation fee.]~~

27 ~~[1. Application for any license required by this chapter shall be filed with the Carson City~~
28 ~~treasurer, business license department, and must be accompanied by an investigation fee~~
which will be nonrefundable once the investigation has been initiated.

~~2. The investigation fee for a massage license shall be reasonable for each applicant listed on~~
the application. (Ord. 1997 33 § 1 (part), 1997).]

SECTION IX:

That Section 4.29.060 of the Carson City Municipal Code is hereby repealed as
follows:

~~[4.29.060 Application for license.]~~

1 ~~[1. Any application for a massage establishment, employee's or independent massage~~
2 ~~therapist license shall provide the following information:~~

3 ~~(a) The name, address, birth date and social security number of the applicant and any other~~
4 ~~person having an interest in the business to be licensed. If the applicant is:~~

5 ~~(1) A corporation, the application shall include the names, addresses, birth dates and social~~
6 ~~security numbers of all officers, directors, stockholders having more than twenty five percent~~
7 ~~(25%) of the issued stock, and resident agent, and the principal place of business of the~~
8 ~~corporation. If, however, the applicant is a corporation whose stock is sold to the general~~
9 ~~public, the stockholders need not be listed.~~

10 ~~(2) A partnership, the application shall include the names, addresses and birth dates of all~~
11 ~~partners. If one (1) or more of the partners is a corporation, the provisions of this section~~
12 ~~pertaining to a corporate applicant shall apply;~~

13 ~~(b) The name, address and telephone number of the individual(s) who will actively manage~~
14 ~~the business for which the license is sought;~~

15 ~~(c) The location, by street and number, of the premises for which the license is sought, and~~
16 ~~the name of the owner, lessee or assignee of the premises where the business is to be~~
17 ~~operated;~~

18 ~~(d) The business, occupation or employment history of the applicant for the three (3) years~~
19 ~~immediately preceding the date of application;~~

20 ~~(e) Whether the applicant has ever had a business license revoked or suspended and the~~
21 ~~reason therefor;~~

22 ~~(f) All criminal convictions of the applicant except minor traffic violations.~~

23 ~~2. Any application for an independent massage therapist must include verification of a training~~
24 ~~program approved by the board, at a school approved by the board, that program is at least~~
25 ~~five hundred (500) hours in length; provided that if the approved training program is less than~~
26 ~~five hundred (500) hours, the applicant shall provide documentation of up to three hundred~~
27 ~~fifty (350) hours of alternative qualifying experience, including but not limited to professional~~
28 ~~massage therapy experience, apprenticeship training in massage therapy, clinical or~~
~~internship training and prior experience in a health career, to be approved by the board.~~

~~3. The board shall establish minimum standards for training and curriculum for approved~~
~~training programs and for approved massage therapy schools. At a minimum, approved~~
~~massage therapy schools shall provide training programs that include a minimum of three~~
~~hundred (300) hours of instruction. This shall include instruction in:~~

~~(a) Anatomy;~~

~~(b) Physiology;~~

~~(c) Massage therapy;~~

~~(d) First aid;~~

~~(e) Cardiopulmonary resuscitation; and~~

~~(f) Professional ethics.~~

~~4. The board shall establish a list of approved massage therapy schools and shall register any~~
~~institution that meets the requirements of the board and files a current curriculum.~~

~~5. Nothing contained herein shall be construed to deny to the board the right to request~~
~~additional information from any applicant. (Ord. 1997-33 § 1 (part), 1997).]~~

SECTION X:

That Section 4.29.070 of the Carson City Municipal Code is hereby repealed as follows:

1 [4.29.070 Investigation by sheriff's office.]

2 [1. The sheriff's office shall investigate the criminal history and qualifications of all applicants
3 for licenses required by this chapter.

4 2. In conducting the investigation, the sheriff may:

5 (a) Fingerprint and photograph the applicant.

6 (b) Require the applicant to answer truthfully, any question related to the application under
7 investigation.

8 The sheriff may route fingerprints to the central repository for Nevada records of criminal
9 history or to the Federal Bureau of Investigation, or to both of these agencies, with the
10 request that all information concerning the criminal history of such person be forthwith
11 transmitted to the sheriff. Any information received from either the central repository for
12 Nevada records of criminal history or the Federal Bureau of Investigation is confidential and
13 may only be accessible to the employer of such persons, to members of criminal justice
14 agencies, to the massage board, and to the health department. (Ord. 1997-33 § 1 (part),
15 1997).]

16 SECTION XI:

17 That Section 4.29.080 of the Carson City Municipal Code is hereby repealed as
18 follows:

19 [4.29.080 Inspection by health department.]

20 [The health department shall inspect the premises of any proposed massage establishment
21 and submit a written report to the business license department. If the health department
22 disapproves the premises, the reasons and necessary corrections shall be stated in its report.
23 (Ord. 1997-33 § 1 (part), 1997).]

24 SECTION XII:

25 That Section 4.29.090 of the Carson City Municipal Code is hereby repealed as
26 follows:

27 [4.29.090 Examination by board.]

28 [1. Upon completion of the investigation by the sheriff's office and the inspection by the health
department, the Carson City health department shall schedule the applicant for examination
by a majority of the board.

2. The applicant(s) shall appear before the board at the appointed time and place to be
examined as follows:

(a) All applicants for licenses required by this chapter shall be examined as to their knowledge
of Carson City laws, rules and regulations regarding massage, massage establishments, and
sanitation.

(b) All applicants for independent massage therapist licenses shall, in addition to the above-
mentioned subjects, be examined as to their knowledge of human anatomy and physiology,
the theory of massage and their ability to administer massage. The board shall not issue an

1 independent massage therapist license to any applicant who fails to demonstrate that
2 reasonable degree of skill, knowledge, or care ordinarily possessed and exercised by
3 massage practitioners if the board finds that such deficiency is potentially injurious to the
4 health, safety or welfare of the public.

5 (c) The board shall adopt rules and regulations for the administration of the examination.

6 (d) If the applicant is successful in the examinations, a temporary license may be issued for a
7 total of one hundred eighty (180) days prior to the completion of the sheriff's investigation. If
8 the investigation determines there is no cause to deny the license, a new license will be
9 issued.

10 3. The board shall grant or deny the license within thirty (30) days after the examination.

11 4. If the license is denied, the applicant shall be notified of the decision and the specific
12 reasons therefor in writing by personal service or certified mail. Within ten (10) days after
13 receiving the decision, the applicant may request a hearing before the board to submit
14 evidence and argument to rebut the reasons for supporting the denial. The request for
15 reconsideration shall be in writing and shall contain a short and plain statement of the matters
16 asserted by the applicant. The request may be served upon any board member or filed with
17 the Carson City treasurer.

18 5. Upon receipt of a request made in accordance with subsection 4 of this section, the board
19 shall schedule a hearing after reasonable notice to the applicant. The applicant is entitled to
20 be represented by counsel at said hearing. Strict rules of evidence need not be observed, but
21 those prescribed in the Nevada Administrative Procedure Act apply.

22 6. Within ten (10) days after the hearing, the board shall render a written decision either
23 affirming the denial or granting the license. The applicant shall be notified of the decision by
24 personal service or certified mail. The decision shall include:

25 (a) A statement of the time, place and nature of the hearing;

26 (b) The names of all participants in the hearing;

27 (c) A statement of the issues and arguments asserted by the applicant and the evidence
28 received or considered by the board; and

(d) The board's finding of fact and conclusions of law regarding each issue asserted by the
applicant.

7. If the board affirms the denial of the license, the applicant shall be entitled to review by the
board of supervisors in accordance with the provisions of CCMC 4.29.195. (Ord. 1997-33 § 1
(part), 1997.)

SECTION XIII:

That Section 4.29.100 of the Carson City Municipal Code is hereby repealed as
follows:

[4.29.100 Business license.]

[1. In addition to any license required by this chapter, licensees who are employers, sole
practitioners or independent contractors must obtain business licenses as prescribed by
Chapter 4.04 of the Carson City Municipal Code.

2. Licensees who are employees shall not be required to obtain business licenses to
administer massage in such employment. (Ord. 1997-33 § 1 (part), 1997.)

SECTION XIV:

1 That Section 4.29.110 of the Carson City Municipal Code is hereby repealed as
2 follows:

3 [~~4.29.110 Right of inspection.~~]

4 [~~Members of the board, sheriff's officers and health department officers shall have access to~~
5 ~~the premises of any massage establishment licenses pursuant to this chapter at any time~~
6 ~~when such establishment is open for the transaction of business and at all other reasonable~~
7 ~~times for the purpose of monitoring compliance with this chapter. (Ord. 1997-33 § 1 (part),~~
8 ~~1997).~~]

8 SECTION XV:

9 That Section 4.29.120 of the Carson City Municipal Code is hereby repealed as
10 follows:

11 [~~4.29.120 Display of license or identification card.~~]

12 [~~1. Massage establishment licenses shall be prominently within the massage establishment.~~
13 ~~2. Every independent massage therapist or manager licensed pursuant to this chapter shall~~
14 ~~be issued an identification card which shall bear his full name, photograph, license number~~
15 ~~and date of expiration.~~
16 ~~3. Every licensee shall have his identification card in his immediate possession at all times~~
17 ~~when working in a massage establishment or administering massage and shall surrender the~~
18 ~~card for examination, upon demand, to a customer, members of the board, sheriff's officers or~~
19 ~~health department officers. (Ord. 1997-33 § 1 (part), 1997).~~]

17 SECTION XVI:

18 That Section 4.29.130 of the Carson City Municipal Code is hereby repealed as
19 follows:

20 [~~4.29.130 Employment restrictions.~~]

21 [~~1. It shall be unlawful for any person or licensee to employ a person who is under the age of~~
22 ~~eighteen (18) years as a massage therapist or manager.~~
23 ~~2. It shall be unlawful for any person or licensee to employ a person who is not licensed~~
24 ~~pursuant to this chapter as a massage therapist or manager.~~
25 ~~3. Every massage establishment shall maintain a current register of the massage therapists~~
26 ~~and managers that it employs. Such register shall be available for inspection as provided in~~
27 ~~Section 4.29.110. (Ord. 1997-33 § 1 (part), 1997).~~]

26 SECTION XVII:

27 That Section 4.29.140 of the Carson City Municipal Code is hereby repealed as
28 follows:

1 [4.29.140 Operating requirements.]

- 2 ~~1. Every portion of a massage establishment, including appliances, apparatus and personnel,~~
3 ~~shall be kept clean and operated in a sanitary condition.~~
4 ~~2. All employees shall wear clean opaque outer garments.~~
5 ~~3. All massage establishments shall be provided with clean, laundered sheets and towels~~
6 ~~which shall be laundered after each use and stored in an approved, sanitary manner. No~~
7 ~~towels or sheets shall be laundered or dried in any massage establishment, unless such~~
8 ~~establishment is provided with approved laundry facilities for such laundry and drying.~~
9 ~~Approved receptacles shall be provided for the storage of soiled linens and paper towels.~~
10 ~~4. Wet and dry hat rooms, shower compartments and toilet rooms shall be thoroughly cleaned~~
11 ~~each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.~~
12 ~~5. No massage establishment licensed pursuant to this chapter shall place, publish or~~
13 ~~distribute or cause to be placed, published or distributed any advertisement, picture, or~~
14 ~~statement which is known or through the exercise of reasonable care should be known to be~~
15 ~~false, deceptive or misleading in order to induce any person to purchase or utilize any~~
16 ~~professional massage services.~~
17 ~~6. The operator of each massage establishment shall post, in a conspicuous place in the~~
18 ~~establishment, a statement of the massage charges, rates or fees for any of the services for~~
19 ~~which a license is required.~~
20 ~~7. Each licensee shall limit practice and instruction to the areas of competence in which~~
21 ~~proficiency has been gained through education, training, and/or experience and refer clients~~
22 ~~to other health professionals when appropriate.~~
23 ~~8. Each licensee shall acknowledge the limitations of and contraindications to massage~~
24 ~~therapy and will not encourage unnecessary or unjustified treatment, engage in any verbally~~
25 ~~or physically abusive behavior or engage in sexual conduct.~~
26 ~~9. Each licensee shall obtain prior informed consent of the client regarding draping and~~
27 ~~treatment to ensure the safety, comfort and privacy of the client. Each licensee shall modify or~~
28 ~~terminate treatment at the client's request, regardless of prior consent.~~
10. ~~Each licensee may refuse to treat any person or part of the body for just and reasonable~~
cause. ~~Each licensee shall not undertake or continue treatment with a client when the~~
licensee is impaired due to mental, emotional or physiologic conditions including substance or
alcohol abuse. (Ord. 1997-33 § 1 (part), 1997).]

21 SECTION XIII:

22 That Section 4.29.150 of the Carson City Municipal Code is hereby repealed as
23 follows:

24 [4.29.150 Prohibited massage.]

- 25 [1. It shall be unlawful for any person or licensee, directly or indirectly, to offer or administer
26 massage of the genitals (includes the breasts of women), perineum or anus of any customer,
27 unless such treatment is prescribed in writing by a physician.
28 2. It is unlawful for any licensee to perform massage without first draping the client. If at any
time the draping falls off or is removed, the massage must stop until the client is redraped.
(Ord. 1997-33 § 1 (part), 1997).]

1 SECTION XIX:

2 That Section 4.29.160 of the Carson City Municipal Code is hereby repealed as
3 follows:

4 [~~4.29.160 Revocation of license.~~]

5 [~~1. The following conditions or occurrences are grounds for revocation of any license issued
6 pursuant to this chapter:~~

7 (~~a) Failure of the licensee to pay the annual business license fee, if required, within thirty (30)
8 days after it becomes due.~~

9 (~~b) Failure of the licensee or its agents or employees to comply with the provisions of this
10 chapter.~~

11 (~~c) Conduct by the licensee or its agents or employees, in connection with massage or the
12 operation of a massage establishment, which violates any state or local law or ordinance, or
13 which is detrimental to the public health, safety or welfare.~~

14 (~~d) Wilful misrepresentations or omissions by the licensee in the application or examination
15 for any license.~~

16 (~~e) Conviction of the licensee of any felony or a crime involving moral turpitude anywhere in
17 this state or elsewhere in the United States. (Ord. 1997-33 § 1 (part), 1997).]~~

18 SECTION XX:

19 That Section 4.29.170 of the Carson City Municipal Code is hereby repealed as
20 follows:

21 [~~4.29.170 Revocation procedure.~~]

22 [~~1. The city health department may, on its own motion or upon the sworn complaint in writing
23 of any person, investigate the conduct of any licensee under this chapter to determine
24 whether grounds for revocation of a license exist. The board may request the assistance of
25 the licensee in such investigation.~~

26 [~~2. After an investigation, if it appears that a ground for revocation exists, the board shall issue
27 and cause to be served on the licensee an order to show cause why his license should not be
28 revoked. Said order shall contain:~~

29 (~~a) A statement directing the licensee or licensee's representative to appear before the board
30 at a time and place set out therein which shall be not less than ten (10) days from the date of
31 service on the licensee of said order to show cause;~~

32 (~~b) A brief statement of the grounds for revocation;~~

33 (~~c) A statement that the licensee shall have an opportunity to be heard, present witnesses
34 and confront any witnesses against him.~~

35 [~~3. Service on the licensee shall be made by personally delivering a copy of the order to show
36 cause to one (1) of the persons whose name is on the license or by mailing a copy of the
37 order by registered mail with return receipt to the place of business of the license which is
38 specified in the license.~~

39 [~~4. At the hearing on the order to show cause, the licensee and the complainant, if there is
40 one, may be represented by attorneys, present testimony, and cross-examine witnesses. If
41 the hearing is pursuant to a complaint, the complainant must also be present.~~

1 ~~5. Within twenty (20) days after the hearing, the board shall render its decision as to~~
2 ~~revocation and give notice thereof to the licensee. A majority of these members present at the~~
3 ~~hearing must agree in order to direct a revocation.~~

4 ~~6. Any person who has had his licensee revoked may reapply for a license after six (6)~~
5 ~~months after the revocation order, but a new license may only be issued by a unanimous~~
6 ~~decision of all members of the board. (Ord. 1997 33 § 1 (part), 1997).]~~

7 SECTION XXI:

8 That Section 4.29.180 of the Carson City Municipal Code is hereby repealed as
9 follows:

10 ~~[4.29.180 Exception to revocation procedure.]~~

11 ~~[If, upon investigating grounds for revocation of a license, the city health department is~~
12 ~~convinced that public health, safety or morals will be endangered by the continued existence~~
13 ~~of the license, it may without notice suspend the license at once and direct the sheriff to close~~
14 ~~the licensee's business. However, an order to show cause shall also be served on the~~
15 ~~licensee at once, and the procedure thereafter shall be in accordance with the revocation~~
16 ~~procedure. (Ord. 1997 33 § 1 (part), 1997).]~~

17 SECTION XXII:

18 That Section 4.29.190 of the Carson City Municipal Code is hereby repealed as
19 follows:

20 ~~[4.29.190 Review by board of supervisors.]~~

21 ~~1. Any license applicant or license aggrieved by a decision of the board denying, suspending~~
22 ~~or revoking a license pursuant to this chapter may petition for a review of the decision by the~~
23 ~~board of supervisors.~~

24 ~~2. The petition for review must be filed with the Carson City treasurer within ten (10) days~~
25 ~~after the petitioner receives the decision.~~

26 ~~3. The petition must be in writing and shall set forth:~~

27 ~~(a) The name and address of the petitioner;~~

28 ~~(b) The date and nature of the decision to be reviewed;~~

~~(c) A specification of the errors upon which the petitioner will rely; and~~

~~(d) The signature of the petitioner.~~

~~4. The review by the board of supervisors shall be confined to the record. In cases of alleged~~
~~irregularities in procedure before the board of massage examiners or the city health~~
~~department, not shown in the record, proof thereon may be taken by the board of supervisors.~~
~~The board of supervisors, upon request shall hear oral arguments and receive written briefs.~~

~~5. The petitioner is entitled to be represented by counsel in the review proceedings.~~

~~6. The board of supervisors may affirm the decision of the board of massage examiners or~~
~~the city health department or remand the case for further proceedings. The board of~~
~~supervisors may reverse the decision if substantial rights of the petitioner have been~~
~~prejudiced because the findings, conclusions or decisions of the lower board are:~~

~~(a) In violation of constitutional or statutory provisions;~~

- 1 ~~(b) In excess of the statutory authority of the board of massage examiners;~~
2 ~~(c) Made upon unlawful procedure;~~
3 ~~(d) Affected by other error of law;~~
4 ~~(e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole~~
5 ~~record; or~~
6 ~~(f) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted~~
7 ~~exercise of discretion.~~
8 ~~(Ord. 1997 33 § 1 (part), 1997).]~~

6 SECTION XXIII:

7 That Section 4.29.195 of the Carson City Municipal Code is hereby repealed as
8 follows:

9 ~~[4.29.195 Applicability of regulations to existing businesses.]~~

10 ~~[Persons holding current Carson City business licenses to engage in business as a massage~~
11 ~~establishment or independent massage therapist shall be required to comply with the~~
12 ~~provisions of this chapter within ninety (90) days after its effective date. However, such person~~
13 ~~shall not be required to pay the investigation fees required by Section 4.29.050. (Ord. 1997-~~
14 ~~33 § 1 (part), 1997).]~~

14 SECTION XXIV:

15 That Section 4.29.200 of the Carson City Municipal Code is hereby repealed as
16 follows:

17 ~~[4.29.200 Exemptions.]~~

18 ~~[This chapter shall not apply to the following individuals while engaged in the personal~~
19 ~~performance of the duties of their respective professions:~~

- 20 ~~(a) Physicians, surgeons, chiropractors, osteopaths, physical therapists or naturopaths who~~
21 ~~are duly licensed to practice their respective professions in the state of Nevada;~~
22 ~~(b) Nurses who are registered under the laws of this state;~~
23 ~~(c) Barbers, hairdressers and cosmeticians who are duly licensed under the laws of this state~~
24 ~~and who perform only those massages included within the "practice of barbering" or the~~
25 ~~practice of "cosmetology" as defined by the Nevada Revised Statutes. (Ord. 1997 33 § 1~~
26 ~~(part), 1997).]~~

24 SECTION XXV:

25 That Section 4.29.210 of the Carson City Municipal Code is hereby repealed as
26 follows:

27 ~~[4.29.210 Fees for testing and other services.]~~

28 ~~[The health authority shall charge and collect reasonable fees for testing and processing~~
licenses. (Ord. 1997 33 § 1 (part), 1997).]

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SECTION XXVI:

That no other provisions of Title 4 are affected by this ordinance.

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PROPOSED on _____ (month) _____(day), 2009

PROPOSED by Supervisor _____.

PASSED _____(month) _____(day), 2009.

VOTE:

AYES:

NAYES:

ABSENT:

ATTEST:

ALAN GLOVER, Clerk/Recorder

ROBERT L. CROWELL, Mayor

This ordinance shall be in force and effect from and after the _____day of the month of _____ of the year 2009.