

BOARD of SUPERVISORS



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

MEMORANDUM

TO: All City Department Heads via Sophia Kittler, Mayor's Office

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: May 17, 2021

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following hearing request and request to report:

File No. 210493

Ordinance amending the Administrative Code to provide that employees are covered by the Health Care Security Ordinance when they are teleworking during the time period that City health orders place restrictions on onsite work and/or encourage employees to telework during the COVID-19 pandemic.

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

c. Andres Power, Mayor's Office



City and County of San Francisco

Master Report

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

File Number: 210493 **File Type:** Ordinance **Status:** 30 Day Rule

Enacted: _____ **Effective:** _____

Version: 1 **In Control:** Rules Committee

File Name: Administrative Code - Application of Health Care Security Ordinance to Employees Teleworking While Health Orders Place Restrictions on Onsite Work **Date Introduced:** 05/04/2021

Requester: _____ **Cost:** _____ **Final Action:** _____

Comment: _____ **Title:** Ordinance amending the Administrative Code to provide that employees are covered by the Health Care Security Ordinance when they are teleworking during the time period that City health orders place restrictions on onsite work and/or encourage employees to telework during the COVID-19 pandemic.

Sponsor: Ronen

History of Legislative File 210493

Ver	Acting Body	Date	Action	Sent To	Due Date	Result
1	President	05/04/2021	ASSIGNED UNDER 30 DAY RULE	Rules Committee	06/03/2021	

1 [Administrative Code - Application of Health Care Security Ordinance to Employees
2 Teleworking While Health Orders Place Restrictions on Onsite Work]

3 **Ordinance amending the Administrative Code to provide that employees are covered**
4 **by the Health Care Security Ordinance when they are teleworking during the time**
5 **period that City health orders place restrictions on onsite work and/or encourage**
6 **employees to telework during the COVID-19 pandemic.**

7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.
9 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
10 **Board amendment additions** are in double-underlined Arial font.
11 **Board amendment deletions** are in ~~Arial font~~.
12 **Asterisks (* * * *)** indicate the omission of unchanged Code
13 subsections or parts of tables.

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

15 Section 1. Background and Findings.

16 (a) Since 2006, the San Francisco Health Care Security Ordinance (HCSO),
17 Administrative Code Chapter 14, has required San Francisco employers to provide for health
18 care expenses of their covered employees in San Francisco, either through health insurance
19 or other health care expenditures, including contributions on behalf of covered employees to
20 the SF City Option program.

21 (b) The HCSO regulates certain employers that engage in business within the City and
22 covers certain employees who work within the City. But the HCSO does not clearly address
23 telework, where an employee performs the duties and responsibilities of the employee's
24 position, typically through electronic means, from a location other than the employer's office or
25 worksite, typically from the employee's residence. To date, the City has treated the location of
telework to be the physical location where the employee works. A covered employer must
provide health care expenditures for a covered employee when the employer's office or

1 worksite is in San Francisco and the employee works from home in San Francisco, but the
2 employer is not required to provide health care expenditures under the HCSO for a coworker
3 doing the same job from home in Oakland, for example.

4 (c) The current system creates administrative challenges for covered employers, which
5 may lack systems for tracking the location where telework is performed. It additionally causes
6 inequities among employees, and it may create disincentives for working remotely at a time
7 when the City's health orders encourage telework to reduce the spread of COVID-19.

8 (d) During the COVID-19 pandemic, the City's Local Health Officer has issued health
9 orders and guidance to mitigate the spread of COVID-19, including the City's stay-safer-at-
10 home order, Health Order No. C19-07v. This health order places restrictions on City
11 businesses' onsite operations and encourages telework from home to the extent possible.
12 Meanwhile, some covered employers have discontinued HCSO health care expenditures for
13 employees who are working remotely from their homes outside the City, resulting in
14 employees losing access to healthcare in the midst of a global pandemic and penalizing them
15 for teleworking in accordance with the stay-safer-at-home order. This ordinance assigns the
16 City as the location of the legal office or worksite for an employee's telework for the period
17 that health orders continue to encourage telework and/or place restrictions on onsite work
18 within the City, if the employee was, is, or after the COVID-19 pandemic will be permitted or
19 required to work from the Covered Employer's office or worksite within the geographic
20 boundaries of the City.

21 (e) The Board of Supervisors intends to more comprehensively address the challenges
22 of telework in a future ordinance.

23
24 Section 2. Chapter 14 of the Administrative Code is hereby amended by revising
25 Section 14.1 to read as follows:

1 **SEC. 14.1. SHORT TITLE; DEFINITIONS.**

2 (a) **Short Title.** This Chapter 14 shall be known and may be cited as the "San
3 Francisco Health Care Security Ordinance."

4 (b) **Definitions.** For purposes of this Chapter 14, the following terms shall have the
5 following meanings:

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

7 "Covered Employee" means any person who works in the City where such person
8 qualifies as an employee entitled to payment of a minimum wage from an Employer under the
9 Minimum Wage Ordinance, Chapter 12R of the Administrative Code, and has performed work
10 for compensation for his or her Employer for ninety (90) calendar days, provided, however,
11 that:

12 (1) "At least eight (8) hours" shall be substituted for "at least two (2) hours"
13 where such term appears in Section 12R.3(a). In addition, during the period that applicable
14 health orders place restrictions on onsite work within the geographic boundaries of the City and/or
15 encourage telework, time that a person teleworks for a Covered Employer from the person's residence
16 or other location that is not an office or worksite of the Covered Employer shall be considered to be
17 work within the geographic boundaries of the City for all purposes under this Chapter 14 if the person
18 was, is, or after the COVID-19 pandemic will be permitted or required to work from the Covered
19 Employer's office or worksite within the geographic boundaries of the City.

20
21 Section 3. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor's veto of the ordinance.

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

7
8 Section 5. Undertaking for the General Welfare.

9 In undertaking the adoption and enforcement of this ordinance, the City is undertaking
10 only to promote the general welfare. The City is not assuming, nor is it imposing on its officers
11 and employees, an obligation for breach of which it is liable in money damages to any person
12 who claims that such breach proximately caused injury. This ordinance does not create a
13 legally enforceable right by any member of the public against the City.

14
15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17 By: /s/ _____
18 LISA POWELL
19 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Application of Health Care Security Ordinance to Employees Teleworking While Health Orders Place Restrictions on Onsite Work]

Ordinance amending the Administrative Code to provide that employees are covered by the Health Care Security Ordinance when they are teleworking during the time period that City health orders place restrictions on onsite work and/or encourage employees to telework during the COVID-19 pandemic.

Existing Law

The San Francisco Health Care Security Ordinance (HCSO), Administrative Code Chapter 14, requires certain employers that do business in the City to provide for health care expenses of their covered employees working San Francisco, either through health insurance or other health care expenditures, including contributions on behalf of covered employees to SF City Option program.

The HCSO does not clearly address how to determine the location of telework, where an employee works from a location other than the employer's office or worksite. To date, the City has treated the location of telework to be the physical location where the employee works, typically the employee's residence.

Amendments to Current Law

The proposed ordinance amends the HCSO, Administrative Code Section 14.1, to provide that during the period that City health orders place restrictions on onsite work within the geographic boundaries of the City and/or encourage telework, time that an employee teleworks for a covered employer shall be considered to be work within the geographic boundaries of the City for all purposes under HCSO, if the person was, is, or after the COVID-19 pandemic will be permitted or required to work from the covered employer's office or worksite within the geographic boundaries of the City

Background Information

Local health orders to mitigate the spread of COVID-19, including the stay-safer-at-home order, Health Order No. C19-07v, encourage telework from home to the extent possible and place restrictions on onsite work in the City. But the current interpretation of the HCSO allows covered employers to discontinue health care expenditures for covered employees who are teleworking from their homes outside the City, resulting in employees losing access to healthcare during the COVID-19 pandemic.

This ordinance addresses the location of the legal office or worksite for telework during the time period that health orders restrict onsite work in the City and/or encourage telework.

FILE NO. 210493

Telework is performed from a location other than the employer's office or worksite, typically but not exclusively through electronic means.

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Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

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

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

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

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

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

Sponsor(s):

Ronen

Subject:

Administrative Code - Application of Health Care Security Ordinance to Employees Teleworking While Health Orders Place Restrictions on Onsite Work and/or Encourage Telework

The text is listed:

Ordinance amending the Administrative Code to provide that employees are covered by the Health Care Security Ordinance when they are teleworking during the time period that City health orders place restrictions on on-site work and/or encourage employees to telework during the COVID-19 pandemic.

Signature of Sponsoring Supervisor:

For Clerk's Use Only

From: [Powell, Lisa \(CAT\)](#)
To: [Lerma, Santiago \(BOS\)](#); [BOS Legislation, \(BOS\)](#)
Cc: [Ronen, Hillary](#); [Somera, Alisa \(BOS\)](#)
Subject: RE: Health Care Security Ordinance Legislation
Date: Wednesday, May 5, 2021 1:57:55 PM
Attachments: [image001.png](#)

Confirmed re my electronic signature and approval as to form on the legislation. Thank you.

Attorney-Client Communication – Do Not Disclose

Lisa Powell
Deputy City Attorney
Office of City Attorney Dennis Herrera
(415) 554-4762 Direct
www.sfcityattorney.org

CONFIDENTIALITY NOTICE:

This email contains information that may be confidential or protected by the attorney-client privilege and/or the work product doctrine and must not be disclosed. It is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any unauthorized interception, review, use, disclosure, dissemination, distribution, copying, or downloading of the information in this email is strictly prohibited. If you have received this communication in error, please notify me immediately and permanently delete the original message and attachments from your email system and destroy all copies. Thank you.

From: Lerma, Santiago (BOS) <santiago.lerma@sfgov.org>
Sent: Wednesday, May 5, 2021 1:44 PM
To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: Ronen, Hillary (BOS) <hillary.ronen@sfgov.org>; Powell, Lisa (CAT) <Lisa.Powell@sfcityatty.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>
Subject: Re: Health Care Security Ordinance Legislation

Looks good.
Thank you.

Santiago

From: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Sent: Wednesday, May 5, 2021 9:03 AM
To: Lerma, Santiago (BOS) <santiago.lerma@sfgov.org>; BOS Legislation, (BOS)

<bos.legislation@sfgov.org>

Cc: Ronen, Hillary <hillary.ronen@sfgov.org>; POWELL, LISA (CAT) <Lisa.Powell@sfcityatty.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>

Subject: RE: Health Care Security Ordinance Legislation

Hello,

Please see attached proof with clerical edits to the short title. Kindly review and confirm that these edits are acceptable.

We are also seeking the approval from Deputy City Attorney Lisa Powell for use of her electronic signature and approval as to form on the legislation, by reply to this email.

Thank you.

Lisa Lew

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services.



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The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*

From: Lerma, Santiago (BOS) <santiago.lerma@sfgov.org>

Sent: Tuesday, May 4, 2021 3:56 PM

To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>

Cc: Ronen, Hillary <hillary.ronen@sfgov.org>; POWELL, LISA (CAT) <Lisa.Powell@sfcityatty.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>

Subject: Health Care Security Ordinance Legislation

Dear Clerk,

Please see attached ordinance.

The use of /s/ Hillary Ronen signifies her approval in lieu of wet signature.
Thanks much,

Santiago Lerma J.D.
Legislative Aide
Office of Supervisor Hillary Ronen
District 9

Office: 415-554-7729
Cell: 415-420-6862

[Administrative Code - Application of Health Care Security Ordinance to Employees Teleworking While Health Orders Place Restrictions on Onsite Work ~~and/or Encourage Telework~~]

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20 was, is, or after the COVID-19 pandemic will be permitted or required to work from the Covered
21 Employer's office or worksite within the geographic boundaries of the City.

22
23 *****

24
25

1 Section 3. Effective Date. This ordinance shall become effective 30 days after
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14 In undertaking the adoption and enforcement of this ordinance, the City is undertaking
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17 who claims that such breach proximately caused injury. This ordinance does not create a
18 legally enforceable right by any member of the public against the City.

19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By: /s/ _____
23 LISA POWELL
24 Deputy City Attorney

25 n:\legana\as2021\2100340\01529980.docx