

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 ~~strikethrough 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

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

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

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

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

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

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

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

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

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

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

14 (1) "At least eight (8) hours" shall be substituted for "at least two (2) hours"
15 where such term appears in Section 12R.3(a). In addition, during the period that applicable
16 health orders place restrictions on onsite work within the geographic boundaries of the City and/or
17 encourage telework, time that a person teleworks for a Covered Employer from the person's residence
18 or other location that is not an office or worksite of the Covered Employer shall be considered to be
19 work within the geographic boundaries of the City for all purposes under this Chapter 14 if the person
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 Section 3. Effective Date. This ordinance shall become effective 30 days after
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
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1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

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

10
11 Section 5. Undertaking for the General Welfare.

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

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

20 By: /s/ _____
21 LISA POWELL
22 Deputy City Attorney

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