

1 [Administrative Code - Health Care Requirements for Certain Employers at San Francisco  
2 International Airport]

3 **Ordinance amending the Administrative Code to require employers of employees**  
4 **covered by the Quality Standards Program at the San Francisco International Airport to**  
5 **provide family health insurance to such employees, or to make contributions on the**  
6 **employees' behalf to an account established under Section 14.2 of the Administrative**  
7 **Code.**

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

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

16 Section 1. Title.

17 This ordinance shall be known as the "Healthy Airport Ordinance."

18 Section 2. Findings.

19 (a) The San Francisco International Airport ("Airport") is a worldwide transportation hub,  
20 connecting the San Francisco Bay Area directly to cities throughout the United States,  
21 Canada, Mexico, Central America, Asia, Australia, and Europe. An average of nearly 58  
22 million people normally travel through the Airport each year.

23 (b) On December 7, 1999, the San Francisco Airport Commission, by Resolution No.  
24 99-0446, adopted the Quality Standards Program (QSP) to enhance Airport safety and  
25 security. The Resolution required the implementation of minimum standards for hiring,

1 training, performance management, and compensation and benefits of employees covered by  
2 the QSP, as well as enhanced equipment safety and security standards. The Airport  
3 Commission incorporated the QSP into the Airport Rules and Regulations and required  
4 compliance as a condition of Airport use permits.

5 (c) The QSP's compensation and benefit standards aim to assist in the recruitment of  
6 high-quality employees and the reduction of employee turnover, and have been successful in  
7 doing so, which in turn has improved worker performance. After the QSP was implemented,  
8 turnover of covered employees fell by an average of 34% overall, with even larger decreases  
9 for employee groups that received higher than average increases in compensation.

10 Employers reported that after the QSP was implemented they were able to increase their  
11 hiring standards, and that they experienced improved employee performance, reduced  
12 disciplinary actions, reduced absenteeism, and fewer employees who failed initial training.  
13 These results improved safety and security at the Airport. Although the primary goals of the  
14 program are safety and security, the QSP also improved Airport efficiency and customer  
15 service.

16 (d) Due to the success of the program, the Airport Commission has adopted several  
17 resolutions that expanded the QSP to include higher standards and new employee groups  
18 that directly impact Airport safety or security. Under Charter Section 4.104, each of these  
19 resolutions was adopted after notice and a public hearing to consider public comment.

20 (1) On January 18, 2000, by Resolution No. 00-0002, the Airport Commission  
21 expanded the QSP to cover employees of airlines and service providers who have access to  
22 the Airfield Operations Area or otherwise are directly involved in passenger and facility safety  
23 and security.

24 (2) After a comprehensive review of the QSP, on August 18, 2009, by  
25 Resolution No. 09-0199, the Airport Commission enhanced the QSP's employee

1 compensation requirements. The Resolution required employers to provide QSP-covered  
2 employees with individual health benefits that met the minimum standards of the Health Care  
3 Accountability Ordinance (HCAO), Administrative Code Chapter 12Q. The Resolution  
4 temporarily froze the QSP minimum wage rate at \$12.33 per hour until that rate was no more  
5 than \$0.50 per hour more than the wage rate required by the Minimum Compensation  
6 Ordinance (MCO), Administrative Code Chapter 12P. The HCAO and MCO, each enacted  
7 after the QSP was adopted, cover employees working under certain City contracts, leases,  
8 and other agreements.

9 (3) On October 13, 2015, by Resolution No. 15-0216, the Airport Commission  
10 included in the QSP employees located on or near Airport property who are directly involved  
11 in the preparation and/or transportation of food and beverage products delivered directly onto  
12 aircraft in the QSP. Additionally, to protect the QSP's pay standard, and the safety and  
13 security interests that this standard supports, this Resolution provided that employee wage  
14 requirements could not be waived in a collective bargaining agreement (CBA) unless the CBA  
15 clearly and unambiguously waived them and provided for wages that at least met the QSP  
16 standards. However, a CBA still may waive the QSP health benefit requirements.

17 (4) On January 19, 2016, by Resolution No. 16-0035, the Airport Commission  
18 adopted additional QSP Airport safety and employee health and safety standards, enhanced  
19 QSP employee training requirements, included Airport custodial workers in the QSP, and  
20 increased fines for non-compliance.

21 (e) The individual health benefits provided to QSP-covered employees are critical to  
22 the health, well-being, and financial security of those employees. These health benefits not  
23 only enhance QSP employee recruitment and retention and reduce employee absences;  
24 employee access to health care also reduces the spread of infectious disease. However,  
25 some QSP-covered employees do not receive health benefits because their CBA waives the

1 health benefit requirement. Also, escalating health care costs are undermining the  
2 effectiveness of these health benefits for QSP-covered employees, and of the QSP's  
3 compensation and benefit components more broadly. Many QSP-covered employees report  
4 that they cannot afford family health benefits. For example, employees of an airline catering  
5 company report being offered family health benefits with a \$700 monthly premium and a  
6 \$6,000 deductible. Such employees may face the choice between accessing health care or  
7 affording other necessary expenses like rent or mortgage payments, food, or childcare.

8 (f) The COVID-19 pandemic poses a new and unprecedented threat to the health of  
9 Airport employees and consequently to the City's ability to safely and effectively operate the  
10 Airport. As COVID-19 spread in Asia and Europe, the Trump Administration did not impose  
11 international travel limits until February 2, 2020, more than a month after the virus was first  
12 reported and after it had already been documented to have spread to more than 20 countries,  
13 including the United States. SFO workers likely had been exposed to COVID-19 before the  
14 novel coronavirus was detected in the United States.

15 (g) On March 16, 2020, to mitigate the spread of COVID-19, local health officers in  
16 seven Bay Area jurisdictions, including the City and San Mateo County, where the Airport is  
17 located, issued health orders directing individuals living in those jurisdictions to shelter in their  
18 places of residence and directing businesses, except essential businesses as defined in the  
19 order, to cease activities at facilities located within those jurisdictions. Although these health  
20 orders have been gradually modified to allow additional activities, they remain in place  
21 indefinitely, and a large number of Bay Area employees continue to work remotely. But many  
22 others in a variety of industries perform jobs that are considered essential but that cannot be  
23 performed remotely. Airport employees, an essential workforce due to their role in facilitating  
24 air travel, which is an essential business, must continue to perform their work duties in person,  
25

1 and thus face a risk of transmission of COVID-19 that is significantly higher than for those who  
2 are able to work safely at home.

3 (h) Employees working at the Airport who perform services that directly impact safety  
4 and/or security at the Airport are at considerable risk of contracting and spreading COVID-19  
5 due to the nature of their work duties. As examples:

6 (1) QSP-covered employees, including airline baggage handlers, wheelchair  
7 agents, security screeners, and lobby agents face a heightened risk of exposure as their job  
8 duties require frequent, close contact with passengers, often in areas where passengers are  
9 likely to congregate together. Inconsistent policies for enforcing compliance with face covering  
10 requirements increase the risk that employees face.

11 (2) Employees of airline catering companies often work in climate-controlled  
12 spaces with little ventilation, where they must breathe the same air recirculated throughout  
13 their shifts. These employees often work in crowded worksites where distancing is not  
14 possible—in industrial kitchens or on assembly lines where employees stand shoulder-to-  
15 shoulder as they prepare food, assemble food and beverage carts, and wash dishes. Others  
16 must board multiple airplanes every week to coordinate catering delivery, coming into close  
17 contact with airplane cabin crews in spaces where distancing is often impossible.

18 (3) Employees who disinfect and clean airplane cabins in between flights must  
19 come into contact with surfaces and areas used by large groups of air travelers, and in some  
20 instances have been asked to clean airplane cabins while passengers are still present.

21 (i) As of September 29, 2020, at least 131 employees who work at the Airport have  
22 tested positive for COVID-19. This figure likely significantly underestimates the true number of  
23 COVID-19 cases among employees who work at the Airport, because many employees lack  
24 access to testing.

1 (j) Many Airport workers are people of color, who may be especially vulnerable to  
2 contracting COVID-19 and to suffering greater health consequences from the virus. According  
3 to the Centers for Disease Control (CDC), there is increasing evidence that some racial and  
4 ethnic minority groups are disproportionately impacted by COVID-19. The CDC has identified  
5 occupation; healthcare access and utilization; discrimination; educational, wealth and income  
6 gaps; and substandard housing as the contributing factors that may increase the risk that  
7 people from certain racial and ethnic minorities contract, face serious illness, or die from  
8 COVID-19.

9 (k) Access to affordable family health benefits is central to achieving the goals of the  
10 QSP. Protecting the health of employees and their families is important to the City's  
11 proprietary interests as owner and operator of the Airport, including its interest in attracting  
12 and retaining high-quality employees whose work impacts safety and security, protecting the  
13 community and the traveling public from the spread of COVID-19, and restoring public  
14 confidence in the safety of air travel.

15 (l) Moreover, recent history shows that these interests are not likely to be limited to the  
16 duration of the COVID-19 pandemic. Air travel played a central role in the spread of severe  
17 acute respiratory syndrome (SARS) in 2002 and Middle East Respiratory System (MERS) in  
18 2014, as well as influenza pandemics in 1957, 1968, and 2009. It is therefore in both the  
19 short-term interest and the long-term interest of the Airport and the City to adopt the changes  
20 to the HCAO set forth in this ordinance.

21  
22 Section 3. Chapter 12Q of the Administrative Code is hereby amended by revising  
23 Sections 12Q.2, 12Q.2.7, 12Q.2.9, 12Q.3, 12Q.5, 12Q.5.2, and 12Q.8; renumbering existing  
24 Section 12Q.2.16 as Section 12Q.2.22 and revising said Section; and adding new Section  
25 12Q.2.16, to read as follows:

1           **SEC. 12Q.2. DEFINITIONS.**

2           As used in this Chapter 12Q, the following capitalized terms shall have the meanings  
3 set forth in ~~the following provisions~~ Sections 12Q.2.1 through 12Q.2.22.

4  
5           **SEC. 12Q.2.7. CONTRACTING PARTIES.**

6           “Contracting Parties” shall mean Contractors, Subcontractors, Tenants, ~~and~~  
7 Subtenants, and employers of San Francisco Airport Service Employees.

8  
9           **SEC. 12Q.2.9. COVERED EMPLOYEE.**

10          (a) “Covered Employee” shall mean:

11                 (1) An Employee of a Contractor or Subcontractor who works on a City Contract  
12 or Subcontract for 20 hours or more per Week:

13                         ~~————— (A) Within the geographic boundaries of the City; or~~

14                         ~~————— (B) On real property owned or controlled by the City, but outside the geographic~~  
15 ~~boundaries of the City; or~~

16                         ~~————— (C) Elsewhere in the United States; and~~

17                 (2) An Employee of a Tenant or Subtenant who works 20 hours or more per  
18 Week on property that is covered by a Lease or Sublease; and

19                 (3) An Employee of a Contractor or Subcontractor that has a Contract or  
20 Subcontract to perform services on property covered by a Lease or Sublease if the Employee  
21 works 20 hours or more per Week on the property; and

22                         (4) A San Francisco Airport Service Employee who works any number of hours during  
23 any Week in such capacity.

24                 (b4) A Contractor or Subcontractor may not divide an employee's time between  
25 working on a City contract and working on other duties with the intent of reducing the number

1 of Covered Employees working on the Contract to evade compliance with this Chapter 12Q.  
2 Such action shall constitute a violation of this Chapter.

3 (c) Notwithstanding the foregoing, the term "Covered Employee" does not include the  
4 following:

5 \* \* \* \*

6  
7 **SEC. 12Q.2.16. SAN FRANCISCO AIRPORT SERVICE EMPLOYEES.**

8 "San Francisco Airport Service Employees" shall mean Employees who are covered employees  
9 under the Quality Standards Program adopted by the San Francisco Airport Commission, as may be  
10 amended from time to time.

11 ~~**WEEK.**~~

12 ~~*"Week" shall mean a consecutive seven-day period. If the Contracting Party's regular pay*~~  
13 ~~*period is other than a seven-day period, the number of hours worked by an employee during a seven-*~~  
14 ~~*day Week for purposes of this Chapter; shall be calculated by adjusting the number of hours actually*~~  
15 ~~*worked during the Contracting Party's regular pay period to determine the average over a seven-day*~~  
16 ~~*Week. However, such period of averaging shall not exceed a duration of one month.*~~

17  
18 **SEC. 12Q.2.22. WEEK.**

19 "Week" shall mean a consecutive seven-day period. If the Contracting Party's regular pay  
20 period is other than a seven-day period, the number of hours worked by an employee during a seven-  
21 day Week for purposes of this Chapter 12Q shall be calculated by adjusting the number of hours  
22 actually worked during the Contracting Party's regular pay period to determine the average over a  
23 seven-day Week. However, such period of averaging shall not exceed a duration of one month.



1           **SEC. 12Q.3. HEALTH CARE ACCOUNTABILITY COMPONENTS.**

2           (a) Except as provided in subsection (d), wWith respect to each Covered Employee who  
3 either resides in San Francisco (regardless of where the Covered Employee provides  
4 services) or provides services covered by this Chapter 12Q in San Francisco, each  
5 Contracting Party shall do one of the following, at the Contracting Party’s option:

6           \* \* \* \*

7           (b) Except as provided in subsection (d), wWith respect to each Covered Employee who  
8 does not reside in San Francisco, but who provides services covered by this Chapter 12Q at  
9 the San Francisco Airport or at the San Bruno Jail, each Contracting Party shall do one of the  
10 options set forth in §subsection (a), at the Contracting Party’s option.

11           \* \* \* \*

12           (d) With respect to each Covered Employee who is a San Francisco Airport Service Employee,  
13 each Contracting Party shall do one of the following, at the Contracting Party’s option:

14                   (1) Offer health plan benefits to the Covered Employee and the Covered Employee’s  
15 dependents, with all the following features:

16                           (A) The health benefits shall be offered at no cost to the Covered Employee.

17                           (B) The health benefits offered shall include at least one plan that provides a  
18 level of coverage that is designed to provide benefits that are actuarially equivalent to at least 90% of  
19 the full actuarial value of the benefits provided under the plan and to provide coverage for all services  
20 described in the California Essential Health Benefit Benchmark Plan. A Contracting Party may offer  
21 additional health benefit plans, provided that each such health benefit plan offered shall provide a level  
22 of coverage that is designed to provide benefits that are actuarially equivalent to at least 80% of the  
23 full actuarial value of the benefits provided under the plan and to provide coverage for all services as  
24 described in the California Essential Health Benefit Benchmark Plan.

1 (C) The maximum period for each Covered Employee's health benefits to become  
2 effective shall be no later than the first day of the first month after 30 days from the start of employment  
3 as a San Francisco Airport Service Employee; provided, however, that if a Contracting Party elects to  
4 make monthly contributions for a Covered Employee pursuant to subsection (d)(2), health benefits shall  
5 become effective no later than the first day after the Contracting Party ceases making such  
6 contributions.

7 (2) For each Week in which the Covered Employee works any hours as a San Francisco  
8 Airport Service Employee, make contributions for that Employee as specified below into an account  
9 established under Section 14.2 of the Administrative Code, as may be amended from time to time.

10 (A) Contributions made pursuant to this subsection (d)(2) shall be \$9.50 per  
11 hour, but not to exceed \$380 in any Week, as of the operative date of the ordinance in Board File No.  
12 201133 \_\_\_\_\_, establishing this subsection.

13 (B) Beginning with fiscal year 2022-2023, and for each following fiscal year, the  
14 Director of Health shall propose adjustments to the hourly rate and weekly maximum fee provided in  
15 this subsection (d)(2), based on changes since the prior year in the Bureau of Labor Statistics  
16 Consumer Price Index for Medical Care in the San Francisco Bay Area or in average Health  
17 Maintenance Organization premiums in California. The Health Director shall submit the proposed  
18 adjustments, together with proposed adjustments under Section 12Q.3(a)(2), to the Controller by  
19 March 1. The Controller shall make appropriate adjustments to the hourly rate and weekly maximum  
20 fee without further action by the Board of Supervisors. The adjusted hourly rate and weekly maximum  
21 fee shall take effect on July 1.

22 (~~e~~) A Covered Employee may voluntarily waive an offer of health plan benefits under  
23 this Section 12Q.3 using a waiver form approved by the Agency upon providing the  
24 Contracting Party proof of current health plan coverage. With respect to subsection (d) of this  
25 Section 12Q.3, such proof of current health plan coverage must include the Covered

1 Employee's dependents. The Contracting Party must retain voluntary waiver forms and proof  
2 of health plan coverage for three years and must provide the Agency access to them upon  
3 request.

4 (f) When preparing proposed budgets and requests for supplemental appropriations for  
5 contract services, City departments that regularly enter into agreements for the provision of  
6 services by nonprofit corporations shall transmit with their proposal a written confirmation that  
7 the department has considered in its calculation the costs that the nonprofit corporations  
8 calculate that they will incur in complying with the Health Care Accountability Ordinance.

9 (gfe) Notwithstanding the above, if, at the time a Contract, Subcontract, Lease, or  
10 Sublease is executed, the Contracting Party has 20 or fewer employees (or, in the case of a  
11 Nonprofit Corporation, 50 or fewer employees), including any employees the Contracting  
12 Party plans to hire to implement the Contract, Subcontract, Lease, or Sublease, the  
13 Contracting Party shall not be obligated to provide the Health Care Accountability  
14 Components set forth in this Section 12Q.3(a), (b), or (c) to its Covered Employees. In  
15 determining the number of employees had by a Contracting Party, all employees of all entities  
16 that own or control the Contracting Party and that the Contracting Party owns or controls, shall  
17 be included.

18

19 **SEC. 12Q.5. ADMINISTRATION AND ENFORCEMENT.**

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\* \* \* \*

21 (f) In addition to any other rights or remedies available to the City under the terms of  
22 any agreement of a Contracting Party or under applicable law, the City shall have the  
23 following rights:

24 (1) The right, at the discretion of the Agency, to charge the Contracting Party for  
25 any amounts that the Contracting Party should have paid to the City for hours worked by

1 Covered Employees pursuant to Section 12Q.3(a)(2), ~~and (b)~~, or (d), or to Covered Employees  
2 pursuant to Section 12Q.3(c)(2), together with simple annual interest of 10% on such amount  
3 from the date payment was due;

4 \* \* \* \*

5  
6 **SEC. 12Q.5.2. INVESTIGATION AND DETERMINATION OF VIOLATIONS.**

7 \* \* \* \*

8 **(e) Withholding of Payments by Controller.**

9 (1) When the Agency sends notice to a Contracting Party of its final  
10 determination that the Contracting Party has violated the requirements of this Chapter 12Q  
11 and of the Contracting Party's right of appeal to the Controller, the Agency may direct the  
12 Contracting Department and the Controller to deduct from the payments otherwise due to the  
13 Contracting Party the amounts that the Agency has determined the Contracting Party must  
14 pay to the City under Section 12Q.3(a)(2), (b), or (d) and as liquidated damages. The  
15 Controller, in issuing any warrant for any such payment, shall deduct the amounts specified by  
16 the Agency.

17 (2) The Controller shall withhold these funds until (A) the hearing officer issues a  
18 decision finding that the Contracting Party does not owe all or a portion of the amount  
19 withheld, in which case the Controller shall release funds to the Contracting Party consistent  
20 with the hearing officer's decision or (B) the Contracting Party consents to the use of the funds  
21 to pay the City the amounts that the Agency or hearing officer found due. As to any funds  
22 being withheld for which neither (A) nor (B) applies, the Controller shall retain the funds until  
23 the hearing officer's decision is no longer subject to judicial review, at which time the  
24 Controller shall distribute amounts owed under Section 12Q.3(a)(2), (b), or (d) in the  
25 appropriate account for the use of the Department of Public Health and amounts due as

1 liquidated damages in the General Fund, provided that this action is consistent with any final  
2 determination of a court of competent jurisdiction. Notwithstanding the provisions of this  
3 subsection, the Agency may authorize the release of payments withheld from the Contracting  
4 Party under this Section if the Agency determines that the continued withholding of funds  
5 imposes a substantial risk of endangering public health or safety, interfering with a service or  
6 project that is essential to the City, or having an unreasonable adverse financial impact on the  
7 City.

8  
9 **SEC. 12Q.8. WAIVER THROUGH COLLECTIVE BARGAINING.**

10 *Except for the requirements provided in subsection 12Q.3(d), a*All or any portion of the  
11 applicable requirements of this Chapter 12Q may be waived in a bona fide collective  
12 bargaining agreement, provided that such waiver is explicitly set forth in such agreement in  
13 clear and unambiguous terms.

14  
15 Section 4. Effective and Operative Dates.

16 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs  
17 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not  
18 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the  
19 Mayor’s veto of the ordinance.

20 (b) This ordinance shall become operative 90 days after its effective date.

21  
22 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
23 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
24 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
25 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

1 additions, and Board amendment deletions in accordance with the “Note” that appears under  
2 the official title of the ordinance.

3

4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By: /s/ Lisa Powell  
7 LISA POWELL  
8 Deputy City Attorney

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City and County of San Francisco

Tails

Ordinance

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

File Number: 201133

Date Passed: November 10, 2020

Ordinance amending the Administrative Code to require employers of employees covered by the Quality Standards Program at the San Francisco International Airport to provide family health insurance to such employees, or to make contributions on the employees' behalf to an account established under Section 14.2 of the Administrative Code.

October 21, 2020 Budget and Finance Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

October 21, 2020 Budget and Finance Committee - CONTINUED AS AMENDED

October 28, 2020 Budget and Finance Committee - RECOMMENDED

November 03, 2020 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

November 10, 2020 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

File No. 201133

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 11/10/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo  
Clerk of the Board

London N. Breed  
Mayor

11.20.20

Date Approved