

1 [Requiring Slip Resistant Manhole, Vault, and Sub-sidewalk Basement Covers, Grilles,  
2 Grates, or Other Lids on the Public Sidewalk.]

3 **Ordinance adding Public Works Code Section 790 to require the installation of slip**  
4 **resistant manhole, vaults, and sub-sidewalk basement covers, grilles, grates, or other**  
5 **lids on the public sidewalk ~~in compliance with the U.S. Architectural and~~**  
6 **~~Transportation Barriers Compliance Board's slip resistant recommendations, to grant~~**  
7 **the Director of Public Works authority to enforce requirements, and to provide for**  
8 **administrative and civil penalties for violations.**

9 Note: This entire section is new.  
10 Board amendment additions are double underlined.  
11 Board amendment deletions are ~~strike through normal~~.

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

13 Section 1. The San Francisco Public Works Code is hereby amended by adding  
14 Section 790, to read as follows:

15 **Sec. 790. Slip Resistant Manhole, Vault, and Sub-sidewalk Basement Covers,**  
16 **Grilles, Grates, or Other Lids on the Public Sidewalk.**

17 (a) **Requirements.** Every person, firm or corporation, including the City and County of  
18 San Francisco, owning or having control of any manhole, vault, or sub-sidewalk basement  
19 cover, grille, grate, or other lid on the public sidewalk must comply with the Department of  
20 Public Works' slip resistant regulations for such surfaces and covers. Said regulations shall be  
21 based on the U.S. Architectural and Transportation Barriers Compliance Board's slip resistant  
22 recommendations or California Code of Regulations Title 24, whichever is more restrictive.  
23 The Director of Public Works shall adopt ~~The~~ a slip resistant standard(s) for such surfaces  
24 and covers after conducting a public hearing on the recommended standard or standards.  
25 shall comply with the latest published edition of ASTM Standard C1028 (the "Standard Test

1 Method for Determining the Static Coefficient of Friction of Ceramic Tile and Other Like  
2 Surfaces by the Horizontal Dynamometer Pull-Meter Method”) at the time of project design  
3 approval. For surfaces and covers that pre-date 1920, the Director shall develop special  
4 standards that encourage, to the maximum extent feasible, preservation or adaptive reuse of  
5 such surfaces and covers. The standards for these surfaces and covers may deviate from the  
6 standards set forth in this subsection and shall include, but not be limited to, measures to  
7 preserve foundry marks, names of public or private companies associated with the surface or  
8 cover, dates, or other historical identifiers; provided, however, that in all instances the  
9 standards shall ensure public safety. The Director shall issue a Departmental Order  
10 specifying the standard or standards adopted pursuant to this section. Covers for sewer vents  
11 and traps that comply with the Plumbing Code are exempt from section 790.

12 (b) **Notice of Violation.** The Director of Public Works shall have authority to enforce  
13 this section. Upon the Director’s determination that a person has violated any provisions of  
14 this section, the Director shall serve notice to the owner to abate the violation within thirty (30)  
15 days. The Director’s notice of violation shall be a written, electronic, or facsimile  
16 communication and shall specify the manner in which the violation shall be remedied.

17 (c) **Hearing.** The owner shall have seven (7) days from the date of the notice to  
18 request in writing a hearing before the Director to contest the notice of violation. If the owner  
19 fails to request a hearing within seven days, the Director’s determination of violation shall be  
20 presumed final. At the hearing, the owner shall be entitled to present evidence that any  
21 manhole, vault or sub-sidewalk basement cover, grille, grate, or other lid on the public  
22 sidewalk complies with the ~~U.S. Architectural and Transportation Barriers Compliance Board’s~~  
23 ~~slip resistant recommendations, and applicable Department of Public Works slip resistant~~  
24 ~~standard rules and regulations.~~ The determination of the Director after the hearing shall be  
25 final and not appealable.

1 (d) **Abatement.** After notification by the Director, the owner shall obtain applicable le  
2 Permit(s), and remove and replace the non-compliant cover(s) or surface(s) within thirty (30)  
3 days. The Director may extend the time for the owner to remove and replace such cover or  
4 surface at in his or her discretion.

5 (e) **Failure to Abate Violation.** If the owner fails to abate any violation pursuant to the  
6 Director's notice, the Director is empowered to abate the violation in the manner in which the  
7 Director deems expedient and appropriate. The owner shall compensate the Department of  
8 Public Works for any costs associated with abating the violation. In addition, the Director may  
9 assess additional penalties, costs and abatement charges in his or her discretion.

10 (f) **Administrative Penalties.** The administrative penalties assessed pursuant to  
11 subsection (e) shall not exceed one thousand dollars (\$1,000) per day, per violation  
12 commencing with the first day of the violation. In assessing the amount of the administrative  
13 penalty, the Directory may consider any one or more of the following: the nature and  
14 seriousness of the violation, the number of violations, the length of time over which the  
15 violation continues to occur, and the willfulness of the violator's misconduct.

16 (g) **Enforcement Costs.** In addition to the administrative penalty assessed pursuant  
17 to subsection (f), the Director may assess enforcement costs to cover the reasonable costs  
18 incurred in enforcing the administrative penalty, including reasonable attorneys' fees.

19 (h) **Civil Penalties.** The Director may call ~~up on~~ upon the City Attorney to maintain an  
20 action for injunction to cause the correction or abatement of the violation, and for assessment  
21 and recovery of a civil penalty and reasonable attorney's fees for such violation. Any person  
22 who violates this section may be liable for a civil penalty, not to exceed \$500 for each day  
23 such violation is committed or permitted to continue, which penalty shall be assessed and  
24 recovered in a civil action brought in the name of the people of the City by the City Attorney in  
25 any court of competent jurisdiction. In assessing the amount of the civil penalty, the court

1 may consider any one or more of the following: the nature and seriousness of the violation,  
2 the number of violations, the length of time over which the violation continues to occur, the  
3 willfulness of the violator's misconduct, and the defendant's assets, liabilities, and net worth.  
4 The City Attorney may also seek recovery of the attorney's fees and costs incurred in bringing  
5 a civil action pursuant to this action.

6 (i) Severability. In adopting this section 790, the Board of Supervisors does not intend  
7 to regulate or affect the rights or authority of the Federal or State government to do those  
8 things that are required, directed, or expressly authorized by Federal or State law or  
9 administrative regulation. Further, in adopting this Ordinance, the Board of Supervisors does  
10 not intend to prohibit that which is prohibited by Federal or State law or administrative  
11 regulation. In the event that a court or agency of competent jurisdiction holds that Federal or  
12 State law, rule or regulation invalidates any clause, sentence, paragraph, or subsection of  
13 section 790 or the application thereof to any person or circumstances, it is the intent of the  
14 Board of Supervisors that the court or agency sever such clause, sentence, paragraph, or  
15 subsection so that the remainder of sections 790 shall remain in effect.

16 Section 2. The Board hereby requests that within one year of the effective date of this  
17 Ordinance, the Director of Public Works shall provide a report to the Board of Supervisors on  
18 the effectiveness of and compliance with the Department's slip resistant standards. The  
19 Report also shall contain recommendations, if any, for amendments to the Public Works Code  
20 that would improve compliance and ensure protection of the public health, safety, and welfare  
21 consistent with the intent of this Ordinance.

22 APPROVED AS TO FORM:  
23 DENNIS J. HERRERA, City Attorney

24 By: \_\_\_\_\_  
25 John D. Malamut  
Deputy City Attorney

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