

1 [Requiring Slip Resistant Manhole Covers and Sub-sidewalk Basement Covers.]

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3 **Ordinance adding Public Works Code Section 790 to require the installation of slip**
4 **resistant manhole covers and sub-sidewalk basement covers in compliance with the**
5 **Americans with Disabilities Act's Accessibility Guidelines' recommended standards, to**
6 **grant the Director of Public Works authority to enforce requirements, and to provide for**
7 **administrative and civil penalties for violations.**

8 Note: This entire section is new.

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

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

13 **Sec. 790. Slip Resistant Manhole Covers and Sub-sidewalk Basement Covers.**

14 (a) **Requirements.** Every person, firm or corporation, including the City and County of
15 San Francisco, owning or having control of any manhole cover or sub-sidewalk basement
16 cover must comply with the Americans with Disabilities Act's Accessibility Guidelines'
17 recommended standards. The slip resistant standard for such surfaces shall comply with the
18 latest published edition of ASTM Standard C1028 (the "Standard Test Method for Determining
19 the Static Coefficient of Friction of Ceramic Tile and Other Like Surfaces by the Horizontal
20 Dymamometer Pull-Meter Method") at the time of project design approval. A static coefficient
21 of friction of at least 0.8 shall be achieved for running slopes greater than 5%. A static
22 coefficient of friction of at least 0.65 shall be achieved for running slopes of 5% or less.
23 Running slope shall mean the slope in the direction of travel as opposed to the cross-slope.

24 (b) **Notice of Violation.** The Director of Public Works shall have authority to enforce
25 this section. Upon the Director's determination that a person has violated any provision of this

1 section, the Director shall serve notice to the owner to abate the violation within thirty (30)
2 days. The Director's notice of violation shall be a written, electronic, or facsimile
3 communication and shall specify the manner in which the violation shall be remedied.

4 (c) **Hearing.** The owner shall have seven (7) days from the date of the notice to
5 request in writing a hearing before the Director to contest the notice of violation. If the owner
6 fails to request a hearing within seven days, the Director's determination of violation shall be
7 presumed final. At the hearing, the owner shall be entitled to present evidence that any
8 manhole cover or sub-sidewalk basement cover complies with the Americans with Disabilities
9 Act's Accessibility Guidelines' recommended standards. The determination of the Director
10 after the hearing shall be final and not appealable.

11 (d) **Abatement.** After notification by the Director, the owner shall obtain any
12 applicable permit(s), and remove and replace the non-compliant cover within thirty (30) days.
13 The Director may extend the time for the owner to remove and replace such cover at his or
14 her discretion.

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

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

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

4 (h) **Civil Penalties.** The Director may call upon the City Attorney to maintain an action
5 for injunction to cause the correction or abatement of the violation, and for assessment and
6 recovery of a civil penalty and reasonable attorney's fees for such violation. Any person who
7 violates this section may be liable for a civil penalty, not to exceed \$500 for each day such
8 violation is committed or permitted to continue, which penalty shall be assessed and
9 recovered in a civil action brought in the name of the people of the City by the City Attorney in
10 any court of competent jurisdiction. In assessing the amount of the civil penalty, the court
11 may consider any one or more of the following: the nature and seriousness of the violation,
12 the number of violations, the length of time over which the violation continues to occur, the
13 willfulness of the violator's misconduct, and the defendant's assets, liabilities, and net worth.
14 The City Attorney may also seek recovery of the attorneys fees and costs incurred in bringing
15 a civil action pursuant to this section.

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

19 By: _____
20 JOHN I. KENNEDY
21 Deputy City Attorney