

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 Transportation~~**
6 **~~Barriers Compliance Board's slip resistant recommendations~~, to grant the Director of Public**
7 **Works authority to enforce requirements, and to provide for administrative and civil**
8 **penalties for violations.**

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10 Note: Additions are single-underline italics Times New Roman;
11 deletions are ~~strikethrough italics Times New Roman~~.
12 Board amendment additions are double underlined.
13 Board amendment deletions are ~~strikethrough normal~~.

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

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

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

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

1 *latest published edition of ASTM Standard C1028 (the “Standard Test Method for Determining the*
2 *Static Coefficient of Friction of Ceramic Tile and Other Like Surfaces by the Horizontal Dynamometer*
3 *Pull-Meter Method”)* at the time of project design approval. The Director shall issue a Departmental
4 Order specifying the standard or standards adopted pursuant to this section. Covers for sewer vents
5 and traps that comply with the Plumbing Code are exempt from section 790.

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

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

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

24 (e) **Failure to Abate Violation.** If the owner fails to abate any violation pursuant to the
25 Director’s notice, the Director is empowered to abate the violation in the manner in which the

1 Director deems expedient and appropriate. The owner shall compensate the Department of
2 Public Works for any costs associated with abating the violation. In addition, the Director may
3 assess additional penalties, costs and abatement charges in his or her discretion.

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

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

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

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

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

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

18 By: _____
19 John D. Malamut
20 Deputy City Attorney