

1 [Regulations for Jane Warner and Harvey Milk Plazas]

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3 **Ordinance (1) approving regulations for Jane Warner Plaza at the intersection of Castro**
4 **and 17th Streets and Harvey Milk Plaza adjacent to the intersection of Castro and**
5 **Market Streets and (2) authorizing official acts in connection with the regulations.**

6 NOTE: Additions are *single-underline italics Times New Roman*;
7 deletions are ~~*strike-through italics Times New Roman*~~.
8 Board amendment additions are double-underlined;
9 Board amendment deletions are ~~strike-through normal~~.

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

10 Section 1. Findings.

11 (a) Jane Warner Plaza, formerly known as the 17th Street Plaza or Castro Commons,
12 and located at the intersection of 17th and Castro Streets, is one of the City's first "Pavement
13 to Parks" projects utilizing excess right-of-way for public park purposes.

14 (b) Harvey Milk Plaza, is located adjacent to the Castro Muni station at Castro and
15 Market Streets. ~~Said plaza is under the control of the Bay Area Rapid Transit District (BART)~~
16 ~~and the street level area is subject to the regulations of the Department of Public Works under~~
17 ~~a use agreement with BART. The Castro Street Muni station is subject to an agreement~~
18 ~~between the Bay Area Rapid Transit District (BART) and the San Francisco Municipal~~
19 ~~Transportation Agency. Said Agreement is on file with the Clerk of the Board of Supervisors~~
20 ~~in File No. _____ and is incorporated herein by reference.~~

21 (c) Both plazas play a vital role in the Castro community and act as gathering places
22 for the public and visitors to the neighborhood.

23 (d) With the extensive use of both plazas, the Board has determined that special
24 regulations should apply to the use of these plazas.

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1 Section 2. Regulations for the use of Jane Warner and Harvey Milk Plazas for those
2 areas within the jurisdiction of the Department of Public Works.

3 A. **HOURS.**

4 Being adjacent to major pedestrian thoroughfares, the Jane Warner and Harvey Milk
5 Plazas are open and available for pedestrians 24 hours a day. However, ~~both Plazas should~~
6 ~~be available for sitting~~ seating on moveable chairs or moveable benches that are provided by
7 a neighborhood organization or in accordance with a Department of Public Works permit shall
8 be available only between the hours of 9:00 a.m. – 9:00 p.m., unless authorized otherwise by
9 the Director of the Department of Public Works. ~~There may be times at the discretion of the~~
10 The Director of the Department of Public Works may issue a permit to close that the Plazas
11 ~~may be closed for general sitting and congregating (inclement weather, for community~~
12 ~~events/festivals, other City/neighborhood functions, or other authorized uses under the Public~~
13 ~~Works Code).~~

14 B. **SLEEPING PROHIBITED DURING CERTAIN HOURS.**

15 ~~No person shall remain in the Jane Warner Plaza or the Harvey Milk Plaza for the~~
16 ~~purpose of sleeping during any hours of the day. The provisions of Park Code Section 3.13~~
17 ~~concerning sleeping shall apply to the Jane Warner and the Harvey Milk Plazas except that~~
18 ~~the Department of Public Works shall administer these provisions.~~

19 C. **CAMPING PROHIBITED.**

20 ~~(1) No person shall construct or maintain or inhabit any structure, tent, or similar~~
21 ~~shelter in either the Harvey Milk Plaza or the Jane Warner Plaza that may be used for housing~~
22 ~~accommodations or camping, nor shall any person construct or maintain any device that can~~
23 ~~be used for cooking.~~

24 ~~(2) No person shall modify the landscape in any way in order to create a shelter, or~~
25 ~~accumulate household furniture or appliances or construction debris. The provisions of Park~~

1 Code Section 3.12 concerning camping shall apply to the Jane Warner and the Harvey Milk
2 Plazas except that the Department of Public Works shall administer these provisions.

3 **D. PEDDLING AND VENDING MERCHANDISE.**

4 No person shall bring, or cause to be brought, for the purposes of sale or barter, or
5 have for sale, or sell or exchange, or offer for sale or exchange any goods, wares, or
6 merchandise in the Jane Warner Plaza or the Harvey Milk Plaza, except for uses for which
7 ~~that~~ the City and County of San Francisco issues a permits. Notwithstanding the above
8 provision, the sale or distribution of newspapers, periodicals, or other printed or otherwise
9 expressive material is allowed subject to any applicable requirements of the Public Works
10 Code.

11 **E. PERFORMANCE OF LABOR.**

12 No person, other than duly authorized City personnel, shall perform any labor, on or
13 upon the Jane Warner Plaza or Harvey Milk Plaza, including, but not limited to, taking up or
14 replacing soil, turf, ground, pavement, structures, trees, shrubs, plants, grass, flowers, or
15 similar activities without prior written permission from the Director of the Department of Public
16 Works.

17 **F. NO SMOKING.**

18 Pursuant to the Municipal Code, smoking is prohibited on any unenclosed area of
19 property in the City and County of San Francisco that is under the jurisdiction of the any City
20 department if the property is a park, square, plaza, garden, sport or playing field, pier, or other
21 property used for recreational purposes, or a farmers' market. Given the use of the subject
22 areas as pedestrian plazas, this prohibition on smoking shall apply to Jane Warner and
23 Harvey Milk Plazas.

24 **G. WHEELED EQUIPMENT PROHIBITED.**

1 No person, other than City employees or its agents or its contractors shall use wheeled
2 conveyances in the Jane Warner Plaza or the Harvey Milk Plaza unless the Director of the
3 Department of Public Works issues a permit or provides written authorization to an individual
4 or entity to allow such use. Notwithstanding the above provision, bicycles as defined in the
5 California Vehicle Code Section 231 or successor legislation, wheelchairs or other devices
6 needed to accommodate persons with disabilities, 2-wheeled shopping carts, children's toys,
7 and strollers (for the purposes of carrying children) may be brought into the Jane Warner and
8 Harvey Milk Plazas. In addition, bicycles are authorized to use the designated bicycle lane in
9 Jane Warner Plaza.

10 H. **VIOLATION OF REGULATIONS; PENALTIES.**

11 (a) If any person has occupied public right-of-way in violation of these regulations,
12 the Director shall immediately order the violator to vacate the occupied area or abate the
13 violation. Should the violation not be corrected as ordered, the permittee or person shall be
14 subject to the actions and penalties set forth below for each violation.

15 (b) **Criminal Penalty.**

16 (1) Any person who shall violate any of the provisions of these regulations
17 shall be guilty of an infraction. Every violation determined to be an infraction is punishable by
18 (a) a fine not exceeding \$100 for the first violation within one year; (b) a fine not exceeding
19 \$200 for a second violation within one year from the date of the first violation; (c) a fine not
20 exceeding \$500 for the third and each additional violation within one year from the date of the
21 first violation.

22 (2) When a government official authorized to enforce this Section has
23 reasonable cause to believe that any person has committed an infraction in the official's
24 presence that is a violation of this Section, the official may issue a citation to that person
25 pursuant to California Penal Code, Part II, Title 3, Chapters 5, 5C, and 5D.

1 (c) **Administrative Penalty.** In the alternative to the criminal penalty authorized by
2 Subsection (b) of this Section, Department of Public Works officials designated in Section 38
3 of the Police Code may issue administrative citations for violations of these regulations. The
4 administrative penalty shall not exceed \$300 per day for each violation. Such penalty shall be
5 assessed, enforced, and collected in accordance with Section 39-1 of the Police Code.

6 Section 3. (a) The Board of Supervisors urges the Director of DPW to adopt a DPW
7 Order that includes the regulations set forth in this Ordinance and any additional regulations
8 that the Department deems appropriate and necessary for the proper management and use of
9 the aforementioned plazas, such as the posting of signage setting forth the regulations. Such
10 DPW Order shall be adopted after a public hearing and thereafter made available to any
11 member of the public that requests such Order.

12 (b) Should there be any conflict between the regulations set forth in this Ordinance and
13 the BART use agreement for Harvey Milk Plaza, the agreement shall prevail. Notwithstanding
14 the above, the Board of Supervisors urges the Director of DPW, in consultation with the
15 Municipal Transportation Agency and City Attorney's Office, to coordinate with BART in order
16 to apply the regulations in this Ordinance to the maximum extent feasible.

17 Section 4. Effective Date. This ordinance shall become effective 30 days from the
18 date of passage.

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

21 By: _____
22 John D. Malamut
23 Deputy City Attorney

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