

1 [Administrative Code - Plaza Program]

2

3 **Ordinance amending the Administrative Code by adding Chapter 94, Sections 94.1**
4 **through 94.7, to establish a Plaza Program that coordinates City activities in some City-**
5 **owned plazas on public property and public right-of-way, to create a process to identify**
6 **stewards to activate plazas under the jurisdiction of the Division of Real Estate and**
7 **regulate such plazas, establishing administrative fees for the Plaza Program, and**
8 **affirming the Planning Department’s determination under the California Environmental**
9 **Quality Act.**

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

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

18

19 Section 1. Findings.

20 (a) Through innovative approaches to transforming the public realm, San Francisco
21 has demonstrated nationally-recognized and innovative leadership with new and unique types
22 of public spaces. With these successes, there is now a need for a systemic program to
23 manage some City-owned urban plazas that benefit San Franciscans.

24 (b) This Board of Supervisors intends for various City, private, nonprofit, and
25 neighborhood groups to collaborate their efforts to provide long-term activation and/or
maintenance to some plazas.

1 (c) The City currently lacks dedicated coordination of activities in City-owned plazas
2 that fall outside of traditional San Francisco Recreation and Parks Department jurisdiction and
3 functions. There is no City staff dedicated to coordinating the Citywide, cross-departmental
4 efforts to maintain and/or activate these spaces, and, as a result, there can be a lack of
5 cohesion and policy-level coordination of the various City efforts to foster innovative
6 approaches and partnerships for these public spaces.

7 (d) Various City programs and initiatives have demonstrated success in encouraging
8 public realm engagement between the City and local stakeholders, including, but not limited
9 to, the Planning Department's Pavement to Parks Program, Recreation and Parks
10 Department partnership opportunities, the Department of Public Works Street Parks Program,
11 development-enabled new open spaces (Planning Department), Octavia Boulevard Interim
12 Use Projects (Mayor's Office of Economic and Workforce Development, "OEWD"), Living
13 Innovation Zones (Mayor's Office of Civic Innovation), and Invest in Neighborhoods (OEWD).

14 (e) Other national and international cities have adopted similar approaches that fall
15 outside traditional recreation and parks department jurisdiction and functions and also utilize
16 community-supported open space partnerships. These include, but are not limited to, the New
17 York City Department of Transportation Plaza Program, the Philadelphia University City
18 District "Porch" at 30th Street Station, the Latham Square Project in Oakland, and the Paris
19 Plage in Paris, France.

20 (f) OEWD convened over 20 meetings of interdepartmental working groups and
21 multiple meetings with relevant stakeholders to: (1) identify various existing and related City
22 public realm partnership efforts and (2) identify opportunities for coordination.

23 (g) An outgrowth of this effort was the creation of the Plaza Program Strategy, which
24 further describes implementation guidelines and processes. A copy of this Strategy is on file
25 with the Clerk of the Board of Supervisors in File No.140061 and is incorporated herein by

1 reference. This effort also led to the establishment of the following goals related to Plaza
2 Program created by this legislation:

3 (1) Continue to strengthen San Francisco’s vibrant communities by lowering City
4 barriers to community and economic development-enhancing partnerships for City-owned
5 open space;

6 (2) Improve the City’s ability to provide more safe, clean, and active City-owned open
7 space than are currently possible with existing City resources;

8 (3) Adopt innovative approaches to activate and manage Plazas in the urban public
9 realm and share these approaches nationally;

10 (4) Work toward operational and fiscal sustainability of the Plazas as revenues
11 generated in a Plaza could support Plaza activation, maintenance, and operations costs and,
12 in cases of excess revenues, cross-fund other Plazas;

13 (5) Dedicate a staff person assigned to coordinating the Citywide, cross-departmental
14 efforts to maintain and/or activate these spaces;

15 (6) Establish an Interagency Plaza Program Working Group (the “Plaza Working
16 Group”) to advise the Plaza Program Coordinator, the Directors of Department of Public
17 Works (“DPW”) and Real Estate Division (“RED”), as well as the Board of Supervisors, on
18 Plaza Program actions, steward selection criteria, evaluation, and processes;

19 (7) Develop by April 1st 2014, standardized agreements and administrative processes,
20 including documents that describe and establish management protocols for Plaza Program
21 partner obligations, liabilities, and requirements; and,

22 (8) Facilitate the addition of at least three Plazas to the program by December 31,
23 2014.

1 (h) Although capital improvements may occur, the main objective of the Plaza Program
2 is not to build new plazas, but to capture long-term, sustainable approaches for Plazas and
3 their associated stakeholders as these viable opportunities emerge from existing City efforts.

4 (i) Plazas that will be included in the Plaza Program will generally meet the following
5 criteria:

6 (1) Public property under the jurisdiction of a City Department other than the
7 Recreation and Parks Department;

8 (2) Public spaces that are generally permanent in nature;

9 (3) Pedestrian plazas that are generally over 2,000 square feet, but are not primarily
10 an active recreational facility or urban agriculture;

11 (4) Public property, including open space areas, that have a demonstrable need for:
12 (a) an operations and maintenance solution and/or (b) activation;

13 (5) Areas that have a location with high potential for natural activation (e.g., near an
14 existing commercial corridor, high pedestrian and/or bicycle traffic, active local community,
15 etc.) and where there is viable potential that activation could support Plaza maintenance,
16 operations, and/or additional activation funding needs for the Plaza, if that is the main funding
17 strategy;

18 (6) Locations where there is an existing community interest in activating that specific
19 public open space;

20 (7) Projects with at least one identified potential partner that has demonstrated
21 capacity to take on stewardship of the space for the length of the lease, license, or permit
22 term; and,

23 (8) Sites with potential to leverage related City efforts.

24 (j) This Ordinance is accompanied by companion legislation to support administration
25 of the Plaza Program. This related legislation includes amendments to the Planning Code,

1 Police Code, and Public Works Code, copies of which are on file with the Clerk of the Board of
2 Supervisors in File Nos. 140062, 140063 and 140064, respectively, and are incorporated
3 herein by reference.

4 (k) The Planning Department has determined that the actions contemplated in this
5 ordinance comply with the California Environmental Quality Act (California Public Resources
6 Code Sections 21000 et seq.). The Board of Supervisors hereby affirms this determination.
7 Said determination is on file with the Clerk of the Board of Supervisors in File No. 140061 and
8 is incorporated herein by reference.

9
10 Section 2. The Administrative Code is hereby amended by adding Chapter 94,
11 Sections 94.1 to 94.7, to read as follows:

12 **CHAPTER 94: THE SAN FRANCISCO PLAZA PROGRAM**

13 **SEC. 94.1. DEFINITIONS.**

14 “Plaza” is City-owned land: (a) where the public may gather and participate in commercial or
15 non-commercial offerings, including, but not limited to, arts activities; entertainment; food, drink,
16 and/or other refreshment; retail sales; sports; and general recreation, (b) that is managed fully or
17 partially by a steward or permittee, and (c) that the Board of Supervisors has approved as a Plaza
18 under the Plaza Program adoption process defined herein.

19 “City Plaza” is a Plaza, as defined in this Section, that is not located on public right-of-way.

20 “Street Plaza” is a Plaza, as defined in this Section, that is located on public right-of-way and
21 subject to the permitting jurisdiction of the Department of Public Works (“DPW”).

22 “Steward” is: (a) any educational, recreational or social agency, or any bona fide fraternal,
23 charitable, or religious or benevolent or any other nonprofit organization or any public agency which
24 organization or agency is exempt from taxation under the Internal Revenue laws of the United States as
25 a bona fide fraternal, charitable, religious, benevolent, or nonprofit organization or a public agency

1 with programs based in San Francisco and (b) an organization or agency with a strong, demonstrated
2 connection to the neighborhood in which the Plaza is located.

3 **SEC. 94.2. PLAZA PROGRAM.**

4 (a) Establishment. There is hereby created a Plaza Program for the City and County of San
5 Francisco. The Plaza Program shall be a joint effort of the Office of Economic and Workforce
6 Development (“OEWD”), Real Estate Division (“RED”), and DPW, any successor agency(ies) or
7 department(s).

8 (b) Functions. The Plaza Program shall:

9 (1) Coordinate principles and practices in Plazas designated under the Plaza Program with
10 other public agencies operating similar public realm initiatives and projects in the City.

11 (2) Be responsible for development and administration of program implementation, polices,
12 and strategies.

13 (3) Sustain strategic partnerships with community organizations, nonprofit organizations, and
14 businesses that have a stake in approved Plazas and, more broadly, in supporting and enhancing these
15 Plazas City-wide.

16 (4) Establish financial sustainability opportunities to support the Plaza Program through the
17 adoption of administrative fees.

18 (5) Explore efforts to cross-subsidize approved program Plazas by leveraging revenue
19 generated in Plazas that exceeds the cost of managing and operating that Plaza and directing a portion
20 of these excess funds to support other Plazas that have a demonstrated funding need.

21 (6) Seek Stewards for Plazas through a Steward identification process that utilizes existing City
22 partnership efforts where possible and builds strong relationships with Stewards.

23 (7) Network communication and coordinate efforts of the various Stewards within the Plaza
24 Program.

1 (8) Identify opportunities to streamline permitting for active uses of Plazas so that barriers to
2 event permitting can be minimized.

3 (9) Encourage Plaza Stewards and permittees to maximize events and activities that are fee to
4 the public.

5 (10) Place jurisdiction of Plazas in either DPW or RED and consider recommendations of the
6 Director of DPW and/or RED for Plaza inclusion in the Plaza Program under the respective
7 jurisdiction of each department.

8 (11) Present Plazas, with DPW or RED Director recommendations concerning Plazas to be
9 placed within the respective jurisdiction of each department, to the Board of Supervisors for approval
10 along with any necessary permits and authorizations including, but not limited to, Street Encroachment
11 Permits, Street Vacation Ordinances, licenses, or leases.

12 (12) Collect Plaza participation data and user feedback, and use established criteria to
13 evaluate Steward performance outcomes in various areas, including economic, activation, and
14 community engagement.

15 (13) Support development of long-term maintenance and activation partnerships as successful
16 Plazas emerge through various City and private efforts. Some Plazas also may have parallel capital
17 improvement processes which should be planned collaboratively with the Plaza Program. However,
18 the affected City Departments should implement these capital funding efforts independently or in
19 association with the Steward or permittee.

20 (14) Strive to ensure that Plazas remain accessible to the public, to the maximum extent
21 feasible, with a recognition that some small number of restricted access events may be helpful in
22 supporting Plaza operations.

23 (15) Support the City goal of continuing to be a national and international leader in public
24 realm innovation.

1 (c) **Report.** The Plaza Program will prepare an impact analysis report after the first two years
2 of Program establishment and every five years thereafter. Said report(s) shall be submitted to the
3 Board of Supervisors and available to the general public.

4 **SEC. 94.3. REGULATIONS FOR CITY PLAZAS.**

5 (a) All City Plazas shall be administered by the Director of RED pursuant to the requirements,
6 rules, and regulations set forth herein or in regulations that the Director of RED adopts.

7 (b) **Steward Identification Process.** The Plaza Program shall issue requests for proposals
8 ("RFP") to identify a Steward for each City Plaza. The Plaza Program shall accept the RFP by a
9 specified deadline and the RFP submittals shall include all required information and documents.

10 (c) Upon issuance of any RFP, the Director of RED shall post the Plaza site with a notice of
11 issuance of the RFP and place a similar request on the Department's website. The Director of RED
12 shall make reasonable efforts to keep the Plaza site notice visible and legible until the deadline for
13 submitting the RFP.

14 (1) **Operational Requirements.** Among other information required for submission as part of
15 the RFP, the applicant shall specify the number of restricted access events, if any, that will be held
16 annually, which number shall not exceed eight (8) such events.

17 (d) The following operational requirements shall apply to City Plazas and shall be posted in a
18 prominent location in each City Plaza:

19 (1) **Peddling and Vending Merchandise.** No person shall bring, or cause to be brought, for the
20 purposes of sale or barter, or have for sale, or sell in exchange, or offer for sale or exchange any
21 goods, wares, or merchandise in the City Plaza, except for which the City and County of San Francisco
22 issues any required permit or other authorization. Notwithstanding the above provision, the sale or
23 distribution of newspapers, periodicals, or other printed or otherwise expressive material is allowed
24 subject to the applicable requirements of the Public Works Code.

1 (2) **Performance of Labor.** No person, other than authorized City personnel, shall perform any
2 labor, on or upon the Plaza, including, but not limited to, taking up or replacing soil, turf, ground,
3 pavement, structures, trees, shrubs, plants, grass, flowers, or similar activities without prior permission
4 from the Director of RED.

5 (3) **Camping Prohibited.** The provisions of Park Code Section 3.12 concerning camping shall
6 apply to the Plaza except that the RED shall administer these provisions.

7 (4) **No Unpermitted Structures.** There shall be no stationing or erecting of any structure(s) on
8 the Plaza without prior permission from the Director of RED.

9 (5) **No Smoking.** Pursuant to the Municipal Code, smoking is prohibited on any unenclosed
10 area of property in the City and County of San Francisco that is under the jurisdiction of any City
11 department if the property is a park, square, garden, sport or playing field, pier, or other property used
12 for recreational purposes, or as a farmers' market. Given the use of the subject areas as an outdoor
13 public plaza, this prohibition on smoking shall apply to City Plazas.

14 (6) **Other Restrictions.**

15 (A) There shall be no skateboarding, bicycle riding, or pets off leash without prior
16 permission from the Director of RED.

17 (B) There shall be no littering, feeding of wildlife, or defacing of public property.

18 (C) No alcohol is allowed to be consumed in City Plazas without prior permission from
19 the Director of RED and all required City and State authorizations and permits.

20 (D) General Advertizing is prohibited.

21 (e) **Additional Requirements Adopted at Time of City Plaza Approval.** Other regulations and
22 requirements, including hours of operation, shall be adopted when each City Plaza is legislatively
23 approved and incorporated into the Plaza Program. Such regulations and requirements shall be
24 posted in a prominent location in each City Plaza.

25 (f) **Lease or License Terms.**

1 (1) The terms of operation, use, and maintenance of a City Plaza shall be specified in a RED
2 lease or license that is subject to approval of the Board of Supervisors. These terms shall include, but
3 are not limited to, scope of permissible activities; daily, weekly, and/or monthly time periods authorized
4 for Steward use and activities and the scope of such use and activities; a minimum number of yearly
5 programmed events; permissible number of annual restricted access events, if any; Steward liability,
6 indemnity, and insurance, as approved by the City Risk Manager or successor agency; on-going
7 community engagement plan; strategies to engage with existing City programs; authorized signage
8 program; the expiration date of the lease or license; remedies for violating the license or lease,
9 including termination; and payment of fees, including any administrative fees as set forth in Section
10 94.7.

11 (2) The term of a City Plaza Lease or License shall be no longer than five (5) years; provided,
12 however, that in unique circumstances or in cases where the Steward installs significant improvements
13 as part of the lease or license, the Director of RED is authorized to provide for a longer term.

14 (3) The lease or license shall require that the Steward submit a monthly calendar of events to
15 the local District Police station, the Director of RED, and the Plaza Program thirty (30) days prior to
16 the start of the subject month.

17 **(g) Exceptions to Operational Requirements and Terms of the Lease or License.**

18 (1) Operational Requirement Exceptions. From time to time and due to unique circumstances,
19 the Operational Requirements set forth above in Subsections (d) or (e) may not be appropriate for a
20 particular event. In such cases, and after a duly noticed public hearing, the Director of RED may issue
21 an exception to the requirements of Subsection (d) or (e) if he or she finds in his or her sole discretion
22 that the public interest would be served by the grant of the exception.

23 (2) Lease or License Terms Exceptions. After written request from a Steward, the Director of
24 RED is authorized to issue non-material exceptions or other minor amendments to the terms of a City
25 Plaza lease or license. The Director shall issues such exceptions in writing, retain the granted

1 exceptions in a file available for public review, and shall post such correspondence on the
2 Department's and Plaza Program's website.

3 (h) **Additional Permits Required for Certain Activities.** Because certain activities may require
4 additional permits or approvals from City or State agencies, boards, commissions, or departments, the
5 Steward shall be solely responsible for obtaining all other permits or approvals that may be necessary
6 for or related to activities at the City Plaza. The Director of RED, as necessary, may consult with the
7 Interdepartmental Staff Committee on Traffic and Transportation (ISCOTT), to identify and coordinate
8 streamlined permitting opportunities that may be available for certain activities on City Plazas.

9 (i) **Violation of Requirements and Regulations.**

10 (1) If any person has occupied a City Plaza in violation of the requirements and regulations,
11 the Director of RED or his designee or agent shall immediately order the violator to vacate the
12 occupied area or abate the violation. Should the violation not be corrected as ordered, the permittee or
13 person shall be subject to enforcement pursuant to the Police Code.

14 (2) The Plaza Program will establish administrative procedures concerning methods to
15 process, address, respond to, and document any complaints concerning operation of a Plaza. If the
16 Director of RED receives verified complaints concerning violations of the terms and conditions of the
17 Steward's lease or license within the initial six (6) month period of operation, the Director of RED
18 shall conduct a public hearing on the Steward's conduct. After the initial six (6) month term, the
19 Director of RED may extend the term to every twelve (12) months for the consideration of subsequent
20 complaints and action thereon. Based on the information presented at the hearing, the Director may
21 terminate, suspend, modify, or condition the lease or license or take any other action the Director
22 deems appropriate under the terms of the lease or license in response to the Steward's conduct.

23 (3) If the Plaza Steward conducts less than the minimum number of annual programmed events
24 stipulated in the lease or license, the Director of RED may terminate, suspend, modify, or condition the
25

1 lease or license or take any other action the Director deems appropriate under the terms of the lease or
2 license in response to the Steward's conduct.

3 (i) **Regulations.** The Board of Supervisors authorizes the Director of RED to adopt regulations
4 as set forth in this Ordinance and any additional regulations that the he or she deems appropriate and
5 necessary for the proper management and use of the City Plazas ("Regulations"). The Director of
6 RED also is authorized to post signage setting forth the Regulations. Such Regulations shall be
7 adopted after a public hearing and thereafter made available to any member of the public that requests
8 such Regulations.

9 **SEC. 94.4. GOOD NEIGHBOR POLICIES.**

10 (a) The Steward for a City Plaza shall manage the Plaza in accordance with the following good
11 neighbor policies during the times of use as set forth in the Plaza lease or license:

12 (1) The quiet, safety, and cleanliness of the Plaza and its adjacent area shall be maintained;

13 (2) Proper and adequate storage and disposal of debris and garbage shall be provided;

14 (3) Noise and odors, unless otherwise permitted, shall be contained within immediate area of
15 the Plaza so as not to be a nuisance to neighbors;

16 (4) Notices shall be prominently displayed during events that urge patrons to leave the Plaza
17 premises and neighborhood in a quiet, peaceful, and orderly fashion and to please not litter or block
18 driveways in the neighborhood. Such notices shall be removed after each event; and,

19 (5) Employees of the Plaza Steward shall walk a 100-foot radius from the Plaza some time
20 within thirty (30) minutes after the daily use period as set forth in the license or lease and shall pick up
21 and dispose of any discarded beverage containers and other trash left by patrons.

22 (b) **Exceptions.** After written request from a Steward, the Director of RED is authorized to
23 issue non-material exceptions or other minor amendments to the Good Neighbor Policies. The Director
24 shall issues such exceptions in writing, retain the granted exceptions in a file available for public
25 review, and shall post such correspondence on the Department's and Plaza Program's website.

1 **SEC. 94.5. REGULATIONS FOR STREET PLAZAS.** *The regulations for Street Plazas are*
2 *set forth in Public Works Code Section 792.*

3 **SEC. 94.6. FEES.**

4 *(a) The Plaza Program shall charge an administrative fee to Stewards or permittees for Plazas.*
5 *Such fee shall be based on actual costs that the Plaza Program incurs in administering and processing*
6 *the action or procedure. The Plaza Program shall provide the applicant with a written estimate of said*
7 *costs at the time of application, and the applicant shall pay such fees prior to the time that the*
8 *application is deemed complete. To the extent that the estimated fees do not cover actual costs, any*
9 *outstanding amount due shall be a condition of the City's final decision on the action or procedure. To*
10 *the extent that the estimated fees exceed the actual costs, the Plaza Program shall refund the excess*
11 *amount to the applicant within a reasonable period after the City's final decision on the action or*
12 *procedure.*

13 *(b) The administrative fee identified in Subsection (a) shall be sufficient to recover actual costs*
14 *that the Plaza Program incurs and shall be charged on a time and materials basis. The Plaza Program*
15 *also may charge for any time and materials costs that other agencies, boards, commissions, or*
16 *departments of the City, including the City Attorney's Office, incur in connection with the processing or*
17 *administration of a particular application, action, or procedure unless such costs are fully included as*
18 *part of an existing permit fee.*

19 *(c) Payment of said fee shall be a condition of any permit, license, lease, or other approval to*
20 *establish and/or operate a Plaza.*

21 *(d) Additional administrative fees may be charged for subsequent Plaza Program staff*
22 *consultation with Stewards or permittees in accordance with the fee requirements specified above. Said*
23 *fees shall be paid on a monthly, quarterly, or annual basis, as specified in a written fee request from*
24 *the Plaza Program.*

25 **SEC. 94.7. PLAZAS PARTICIPATING IN THE PLAZA PROGRAM.**

1 (a) [Intentionally left blank].

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

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

By: _____
John D. Malamut
Deputy City Attorney

n:\land\as2013\9690086\00883140.doc