

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 ~~striketrough 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.

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

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

22 Section 2. Regulations for the use of Jane Warner and Harvey Milk Plazas.

23 A. **HOURS.**

24 Being adjacent to major pedestrian thoroughfares, the Jane Warner and Harvey Milk
25 Plazas are open and available for pedestrians 24 hours a day. However, both Plazas should

1 be available for sitting on moveable chairs or moveable benches only between the hours of
2 9:00 a.m. – 9:00 p.m. There may be times at the discretion of the Director of the Department
3 of Public Works that the Plazas may be closed for general sitting and congregating (inclement
4 weather, community events/festivals, other City/neighborhood functions).

5 **B. SLEEPING PROHIBITED.**

6 No person shall remain in the Jane Warner Plaza or the Harvey Milk Plaza for the
7 purpose of sleeping during any hours of the day.

8 **C. CAMPING PROHIBITED.**

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

13 (2) No person shall modify the landscape in any way in order to create a shelter, or
14 accumulate household furniture or appliances or construction debris.

15 **D. PEDDLING AND VENDING MERCHANDISE OR PRINTED MATERIAL.**

16 No person shall bring, or cause to be brought, for the purposes of sale or barter, or
17 have for sale, or sell or exchange, or offer for sale or exchange any goods, wares, or
18 merchandise in the Jane Warner Plaza or the Harvey Milk Plaza, except for uses that the City
19 and County of San Francisco permits.

20 **E. PERFORMANCE OF LABOR.**

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

1 **F. NO SMOKING.**

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

8 **G. WHEELED EQUIPMENT PROHIBITED.**

9 No person, other than City employees or its agents or its contractors shall use wheeled
10 conveyances in the Jane Warner Plaza or the Harvey Milk Plaza unless the Director of the
11 Department of Public Works issues a permit or provides written authorization to an individual
12 or entity to allow such use. Notwithstanding the above provision, bicycles, wheelchairs, 2-
13 wheeled shopping carts, and strollers (for the purposes of carrying children) may be brought
14 into the Jane Warner and Harvey Milk Plazas and bicycles are authorized to use the
15 designated bicycle lane in Jane Warner Plaza.

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

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

21 (b) **Criminal Penalty.**

22 (1) Any person who shall violate any of the provisions of these regulations
23 shall be guilty of an infraction. Every violation determined to be an infraction is punishable by
24 (a) a fine not exceeding \$100 for the first violation within one year; (b) a fine not exceeding
25 \$200 for a second violation within one year from the date of the first violation; (c) a fine not

1 exceeding \$500 for the third and each additional violation within one year from the date of the
2 first violation.

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

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

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

18 (b) Should there be any conflict between the regulations set forth in this Ordinance and
19 the BART use agreement for Harvey Milk Plaza, the agreement shall prevail. Notwithstanding
20 the above, the Board of Supervisors urges the Director of DPW, in consultation with the City
21 Attorney's Office, to coordinate with BART in order to apply the regulations in this Ordinance
22 to the maximum extent feasible.

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

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

3 By: _____
4 John D. Malamut
5 Deputy City Attorney
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