[Regulations for Jane Warner and Harvey Milk Plazas]

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

NOTE: Additions are single-underline italics Times New Roman; deletions are strike-through italics Times New Roman. Board amendment additions are double-underlined; Board amendment deletions are strikethrough normal.

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

Section 1. Findings.

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

(b) Harvey Milk Plaza, is located adjacent to the Castro Muni station at Castro and Market Streets. Said plaza is under the control of the Bay Area Rapid Transit District (BART) and the street level area is subject to the regulations of the Department of Public Works under a use agreement with BART. The Castro Street Muni station is subject to an agreement between the Bay Area Rapid Transit District (BART) and the San Francisco Municipal Transportation Agency. Said Agreement is on file with the Clerk of the Board of Supervisors in File No. 111248 and is incorporated herein by reference.

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

(d) With the extensive use of both plazas, the Board has determined that special regulations should apply to the use of these plazas.
Section 2. Regulations for the use of Jane Warner and Harvey Milk Plazas for those areas within the jurisdiction of the Department of Public Works.

A. **HOURS.**

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

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

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

C. **CAMPING PROHIBITED.**

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

(2) No person shall modify the landscape in any way in order to create a shelter, or accumulate household furniture or appliances or construction debris. The provisions of Park...
Code Section 3.12 concerning camping shall apply to the Jane Warner and the Harvey Milk Plazas except that the Department of Public Works shall administer these provisions.

D. PEDDLING AND VENDING MERCHANDISE.

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

E. PERFORMANCE OF LABOR.

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

F. NO SMOKING.

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

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

VIOLATION OF REGULATIONS; PENALTIES.

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

(b) Criminal Penalty.

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

(2) When a government official authorized to enforce this Section has reasonable cause to believe that any person has committed an infraction in the official's presence that is a violation of this Section, the official may issue a citation to that person pursuant to California Penal Code, Part II, Title 3, Chapters 5, 5C, and 5D.
(c) **Administrative Penalty.** In the alternative to the criminal penalty authorized by Subsection (b) of this Section, Department of Public Works officials designated in Section 38 of the Police Code may issue administrative citations for violations of these regulations. The administrative penalty shall not exceed $300 per day for each violation. Such penalty shall be assessed, enforced, and collected in accordance with Section 39-1 of the Police Code.

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

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

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

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

By:  
John D. Malamut  
Deputy City Attorney
Ordinance: 1) approving regulations for Jane Warner Plaza at the intersection of Castro and 17th Streets and Harvey Milk Plaza adjacent to the intersection of Castro and Market Streets; and 2) authorizing official acts in connection with the regulations.

January 23, 2012 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

January 23, 2012 Land Use and Economic Development Committee - RECOMMENDED AS AMENDED

January 31, 2012 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE
   Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Olague and Wiener

January 31, 2012 Board of Supervisors - AMENDED
   Ayes: 7 - Avalos, Campos, Chiu, Cohen, Kim, Mar and Olague
   Noes: 4 - Chu, Elsbernd, Farrell and Wiener

January 31, 2012 Board of Supervisors - PASSED ON FIRST READING AS AMENDED
   Ayes: 6 - Chiu, Chu, Cohen, Elsbernd, Farrell and Wiener
   Noes: 5 - Avalos, Campos, Kim, Mar and Olague

February 07, 2012 Board of Supervisors - FINALLY PASSED
   Ayes: 6 - Chiu, Chu, Cohen, Elsbernd, Farrell and Wiener
   Noes: 4 - Avalos, Kim, Mar and Olague
   Excused: 1 - Campos
File No. 111248

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 2/7/2012 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

Date Approved: 2/9/12