

1 [Opposing California State Senate Bill No. 79 (Wiener) Unless Amended - Housing
2 Development: Transit-Oriented Development]

3 **Resolution opposing California State Senate Bill No. 79, Housing Development: Transit-**
4 **Oriented Development, introduced by Senator Scott Wiener, and similar future**
5 **legislation, unless amended to give Local governments adequate ability to formulate**
6 **local plans through its local legislative process, in which local governments and**
7 **residents have adequate review and oversight of community planning, including**
8 **affordability requirements, and residential and commercial tenant protections.**
9

10 WHEREAS, The City and County of San Francisco completed a lengthy community
11 planning process, starting in December 2019, to develop the 2022 Housing Element, which
12 was thoroughly analyzed for environmental and equity impacts, identified protected and
13 valuable Priority Equity Geographies (PEG's); and

14 WHEREAS, The 2022 Housing Element was unanimously adopted by the Board of
15 Supervisors and found to be in compliance with State "capacity" requirements by the
16 California Department of Housing and Community Development (HCD) in January 2023; and

17 WHEREAS, The Housing Element is typically updated every eight years in anticipation
18 of future planning efforts to accommodate projected population growth and the planning for
19 necessary infrastructure to support an increase in residents and jobs, and has historically
20 been accommodated by Large Area Plans encompassing areas of the city that have the most
21 opportunity for growth without direct residential displacement, such as the Eastern
22 Neighborhoods Plan, with which its four neighborhood area plans took a years to complete
23 with significant community input, affordability requirements and infrastructure planning; and

24 WHEREAS, The Mayor of the City and County of San Francisco, by and through the
25 Planning Department, has introduced legislation to rezone approximately half of San

1 Francisco ostensibly to meet the goals of the 2022 Housing Element, for which legislation has
2 yet to be vetted by the Planning Commission, or considered by the Board of Supervisors; and

3 WHEREAS, Governor Jerry Brown signed California State Assembly Bill 2923, *San*
4 *Francisco Bay Area Rapid Transit District: Transit-oriented Development* (Grayson, D-
5 Concord and Chiu, D-San Francisco), into law in 2018, requiring the establishment of
6 minimum local zoning requirements and permit streamlining for transit-oriented development
7 on Bay Area Rapid Transit (BART)-owned land that is located on contiguous parcels larger
8 than 0.25 acres, within 1/2 mile of an existing or planned BART station entrance, without any
9 additional affordability requirements beyond cities' existing inclusionary program, with the goal
10 of building 20,000 new housing units at or near BART stations by 2040; and

11 WHEREAS, The City and County of San Francisco has developed a diverse set of
12 policy priorities, local planning requirements and housing development incentives tailored to
13 accommodate growth within San Francisco's compressed geographic boundaries, while
14 seeking to protect valuable existing housing, small businesses, blue-collar light industrial and
15 local manufacturing work sites, and cultural and social institutions that shelter, sustain, and
16 serve a culturally and economically diverse population, including a majority renter population;
17 and

18 WHEREAS, Despite thoughtful community-led planning, financing and rezoning
19 citywide, including eliminating single-family home zoning and incentivizing the development of
20 Accessory Dwelling Units (ADU's), adopting voter-approved affordable housing bonds totaling
21 approximately one billion dollars, and passing numerous local permit streamlining laws (not
22 including over 300 often conflicting State bills adopted since 2017, of which many of them
23 preempt local laws), San Francisco currently has approximately 40,000 fully-entitled units of
24 housing unable to secure construction financing, and has not received significant State
25 support in the form of creative financing strategies, tax credits, subsidies or funding to address

1 the significant underproduction of housing middle-income, low, and very low income residents;
2 and

3 WHEREAS, California Senate Bill No. 79 (SB 79), authored by State Senator Scott
4 Wiener, undermines the City's ongoing planning process that is currently being undertaken,
5 because it further deregulates land use and development requirements, particularly around
6 housing affordability, including in areas that the City has not only already adopted balanced
7 area plans , but also in Priority Equity Geographies, where displacement-risk is high, and on
8 top of the city's current as-yet-to-be-adopted rezoning plan; and

9 WHEREAS, Proposed projects that take advantage of SB 79 benefits would also be
10 able to take advantage of by-right entitlement under Senate Bill 423 (Wiener), which is on file
11 with the Clerk of the Board of Supervisors in File No. 250727, and is hereby declared to be a
12 part of this Resolution as if set forth fully herein; and

13 WHEREAS, SB 79 does not provide for any phasing or "metering" of the development
14 to ensure a balance of market-rate and affordable homes, in order to allow for local
15 jurisdictions to meet their affordable housing goals at the same pace as luxury development;
16 and

17 WHEREAS, As currently written, projects that take advantage of SB 79 benefits and
18 similarly for a project entitled through a "local alternative" ordinance are also still eligible for
19 additional density or other concessions, incentives or waivers under the State Density Bonus
20 on top of the allowances provided for in SB 79, which is essentially a "double dip"; and

21 WHEREAS, By encouraging land speculation, displacement and gentrification, SB 79
22 significantly undercuts the years-long community process to develop a citywide Housing
23 Element that was deemed HCD-compliant and protect PEG's, which particularly includes the
24 Mission District, Bayview, Inner Richmond, Greater Chinatown and other dense, vibrant and
25 diverse neighborhoods; and

1 WHEREAS, Public participation and input into the local planning and policymaking
2 process is essential to successfully and equitably accommodating local and regional growth;
3 and

4 WHEREAS, As with many other cities, San Francisco's Planning Code was not
5 designed to be a rigid formula for development, but rather a collection of specific and variable
6 zoning standards to seek a balance between promoting change and protecting existing uses,
7 while balancing the needs of a diversity of neighborhood commercial and transit corridors; and

8 WHEREAS, The core concern of the predecessor to SB 79, Senate Bill 50 (Wiener),
9 which is on file with the Clerk of the Board of Supervisors in File No. 250727, and which is
10 hereby declared to be a part of this Resolution as if set forth fully herein, was ultimately
11 rejected by the State Legislature five years ago because of its over-reach and its potential
12 threat to low-income and communities of color in vulnerable transit-accessible neighborhoods
13 across cities in California; and

14 WHEREAS, The layering of deregulatory legislation mandated by the State over more
15 deregulatory legislation already imposed, without an effective affordability plan,
16 commensurate state and federal investment, and enforceable tenant protections, nor
17 enforceable and small business protections in the face of anticipated significant displacement
18 of small business in commercial-only buildings, particularly at the upswing of the Bay Area's
19 next economic boom, will lead to widespread displacement and land speculation, which was
20 the same concern that rejected SB 50; and

21 WHEREAS, SB 79 also makes it harder for non-profit affordable housing developers to
22 obtain site control of large opportunity sites, as land values are driven up by upzoning
23 mandates like SB 79 making development sites even less competitive for affordable housing
24 developers, and at the same time state and federal disinvestment continues leaving the
25

1 benefits of this upzoning and entitlement streamlining almost entirely to market-rate and
2 luxury developers; and

3 WHEREAS, SB 79 allows jurisdictions that have explicitly created an alternate Transit
4 Oriented Development (TOD) plan to opt out of the bill's mandates, while at the same time,
5 San Francisco has reasonably demonstrated a commitment to strong TOD planning, including
6 but not limited to the Eastern Neighborhoods Plan, the Transit Center District Plan, the Transit
7 First Policy, Priority Development Areas (PDA), the HOME SF program, and the San
8 Francisco Transportation Element, which was last updated in 1995 and currently in the
9 process of being updated in 2025 in conjunction with the City's Housing Element rezoning;
10 and

11 WHEREAS, While the California Constitution requires the State to reimburse local
12 agencies and school districts for certain costs mandate by the State, including land use
13 rezoning bills intended to increase capacity for housing development, as does this SB 79 Bill
14 in Section (3) of the text, reading: "(3)The California Constitution requires the state to
15 reimburse local agencies and school districts for certain costs mandated by the state;
16 statutory provisions establish procedures for making that reimbursement; this bill would
17 provide that no reimbursement is required by this act for a specified reason."; the State has
18 consistently failed to comply with this expectation through commensurate investment in
19 affordable housing construction and necessary operating subsidies to ensure the affordability
20 promised by these rezoning and upzoning bills; and

21 WHEREAS, The City Attorney of Los Angeles has adopted an "oppose unless
22 amended" position on SB 79, which is on file with the Clerk of the Board of Supervisors in File
23 No. 250727, and which is hereby declared to be a part of this resolution as if set forth fully
24 herein, because of its "billions of dollars in additional costs to communities" and "because
25 State mandates like SB 79 require new density without enabling cities to recover the actual

1 infrastructure costs, the mandates create unfunded obligations in the billions of dollars”; now,
2 therefore, be it

3 RESOLVED, That That the Board of Supervisors of the City and County of San
4 Francisco finds that California State Senate Bill No. 79 unduly limits the ability of local
5 governments and local residents to have adequate review and oversight of community
6 planning and policymaking, including critically important affordability requirements and
7 residential and commercial tenant protections; and, be it

8 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
9 Francisco urges the State to develop a detailed housing affordability plan to be updated every
10 eight years along with local Housing Elements, and provide the necessary capital and
11 operating investments to build new housing at the scale of that plan to address the
12 affordability crisis in California and the Bay Area; and, be it

13 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
14 Francisco directs the Clerk of the Board to transmit a copy of this Resolution upon passage to
15 the respective offices of the California State Senate, State Assembly and the City Lobbyist.