

1 [Urging Implementation of Proposition 36 - The Drug Addiction and Theft Reduction Act -
2 Prioritize Ending Open-Air Drug Scenes in Equity Priority Communities]

3 **Resolution urging the full and prompt implementation of California State Proposition**
4 **36, the Drug Addiction and Theft Reduction Act, which passed overwhelmingly in**
5 **California and San Francisco, to make maximum use of Treatment-Mandated Felonies**
6 **by increasing enforcement and drug treatment capacity, and by prioritizing Equity**
7 **Priority Communities for expedited progress toward drug-free sidewalks and ending**
8 **the phenomenon of illegal public drug use and open-air drug scenes in San Francisco.**
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10 WHEREAS, San Francisco is in the midst of a persistent and record-shattering drug
11 crisis, with the 810 San Franciscans lost last year to drug overdoses marking the deadliest
12 year for such fatalities in city history — and even with modestly improving trends this year,
13 2024 is still on pace for an accidental drug overdose death rate that approaches an average
14 of two deaths per day, according to the most recent statistics from San Francisco’s Office of
15 the Chief Medical Examiner (OCME); and

16 WHEREAS, Acknowledging “San Francisco’s overdose death rate to be among the
17 highest of large U.S. cities,” the San Francisco Department of Public Health’s Overdose
18 Prevention Plan in 2022 noted “profound inequities” that exist in our city’s drug crisis for Black
19 San Franciscans, “with an opioid overdose death rate that is more than five times higher than
20 the citywide rate,” and that for a population representing less than 6 percent of San
21 Francisco’s total, Black San Franciscans have accounted for fully 28 percent of its overall fatal
22 overdoses since January 2020; and

23 WHEREAS, The primary street-level drug driving the drug overdose crisis we face is
24 fentanyl, a potently addictive and deadly synthetic opioid for which the “estimated minimum
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1 lethal dose” is just two (2) milligrams, according to the third edition of Clarke’s Analysis of
2 Drugs and Poisons (Pharmaceutical Press: London. 2011); and

3 WHEREAS, Fentanyl’s disproportionate share in driving drug overdose deaths last
4 year exceeded 80 percent of total fatalities citywide, according to data from the San
5 Francisco’s OCME, with toxicologists observing an increasingly pervasive presence of
6 fentanyl in San Francisco’s drug supply, with more than 90 percent of deaths attributable to
7 such stimulants as methamphetamine and cocaine also testing positive for fentanyl; and

8 WHEREAS, Although the unprecedented and racially disparate loss of life due to illegal
9 drug use should remain the primary moral imperative for solving San Francisco’s drug crisis,
10 secondary harms attributable to street-level drug use and drug markets include: public
11 disorder and low-level lawlessness, diminished street conditions, illegal encampments, and
12 open-air drug scenes that rob communities of the safe enjoyment of their own neighborhoods
13 and diminish the economic vibrancy of San Francisco’s commercial corridors, convention
14 areas, and tourist destinations; new and unprecedented levels of addiction-driven retail theft,
15 which too often include violent attacks on business owners and their employees; runaway
16 public sector costs to taxpayers conservatively estimated to exceed \$1 billion annually for
17 medical care, social services, shelter and housing, safe disposal of discarded needles and
18 drug litter, and sanitation and public works services necessary to continually clean and repair
19 damages to our public realm; and

20 WHEREAS, Socio-economically disadvantaged neighborhoods suffer significantly
21 more severe harms due to illegal drug markets and street-level drug scenes in San Francisco,
22 with OCME data establishing that the vast majority of accidental drug overdose deaths occur
23 in ZIP Codes that map closely to Equity Priority Communities (EPCs) (census tracts identified
24 by the Metropolitan Transportation Commission (MTC) and Association of Bay Area
25 Governments (ABAG) that have significant concentrations of underserved populations, such

1 as households with low incomes and people of color) with fatal drug overdoses
2 disproportionately occurring at the following levels: 22 percent in 94102 (Tenderloin, Hayes
3 Valley and North of Market); 21 percent in 94103 (South of Market); 20 percent in 94109 (Polk
4 Street, Nob Hill and Russian Hill); and 10 percent in 94110 (Mission District and Bernal
5 Heights), according to the latest OCME Accidental Overdose Report as of November 18,
6 2024; and

7 WHEREAS, Drug addiction is a complex but treatable disease affecting brain function
8 and behavior that is characterized by intense and progressively uncontrollable craving and
9 compulsive drug use — even in the face of increasingly life-endangering consequences —
10 and that according to the National Institute on Drug Abuse’s (NIDA) 2018 Principles of Drug
11 Addiction Treatment: A Research-Based Guide (Third Edition), “treatment does not need to be
12 voluntary to be effective,” with NIDA adding that “sanctions or enticements from family,
13 employment settings, and/or the criminal justice system can significantly increase treatment
14 entry, retention rates, and the ultimate success of drug treatment interventions”; and

15 WHEREAS, Proposition 36 on the November 5, 2024, general election ballot afforded
16 California voters the opportunity to take a modest step in the direction of such states as New
17 Jersey, Maryland, Illinois, and Michigan by enacting a new class of criminal offense known as
18 a “Treatment-Mandated Felony” (TMFs), under which local prosecutors will have “the
19 discretion to charge a felony for hard drug possession after two previous drug convictions,”
20 and that if so charged for a third or subsequent drug offense, “the offender would be given the
21 option of participating in drug and mental health treatment,” and that, “if the offender
22 successfully completes drug and mental health treatment, the charge would be fully
23 expunged, and the offender would receive no jail time,” and that “[a]long with hard drug and
24 mental health treatment, offenders charged with a treatment-mandated felony would be

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1 offered shelter, job training, and other services designed to break the cycle of addiction and
2 homelessness”; and

3 WHEREAS, When Californians in 2014 adopted Proposition 47 — the well-intended
4 measure that 2024’s just-passed Proposition 36 in large part reformed — an unintended
5 consequence of minimizing penalties for drug possession was to remove tools once available
6 to the criminal justice system, which as NIDA acknowledged are effective to “significantly
7 increase treatment entry, retention rates, and the ultimate success of drug treatment
8 interventions”; that is why, since Proposition 47’s passage, participation in drug courts has
9 plummeted, overdose deaths have skyrocketed, and drug-driven unsheltered homelessness
10 has risen so sharply statewide, according to Proposition 36 proponents; and

11 WHEREAS, In the General Election of Tuesday, November 5, 2024, Californians voted
12 overwhelmingly to enact Proposition 36 into law, with statewide results as of November 17,
13 2024, posting a better-than two-to-one margin of victory — with 9,812,730 (68.6 percent)
14 Californians voting yes, and 4,497,638 (31.4 percent) voting no — and a unanimity of all 58
15 counties in California voting in support of the measure; and

16 WHEREAS, In the Consolidated General Election of Tuesday, November 5, 2024, San
17 Francisco voters demonstrated similarly overwhelming support for Proposition 36, with
18 citywide results as of November 17, 2024, demonstrating a landslide victory of 241,636 (63.86
19 percent) San Franciscans voting yes, and 136,775 (36.14 percent) voting no — and a
20 unanimity of all 11 supervisorial districts in San Francisco voting to support the measure, from
21 a zenith of 72 percent support in District 4 to the lowest level of support in District 9 still
22 posting a 52 percent majority; now, therefore, be it

23 RESOLVED, That the San Francisco Board of Supervisors affirms its intent to fulfill
24 voters’ will in implementing Proposition 36 fully and promptly — facilitating enhanced penalties
25 for drug possession and retail theft; dramatically scaling up in-patient, out-patient and locked

1 drug treatment options; and taking all available steps to maximize the use treatment-
2 mandated felonies to ensure that criminal justice interventions for multiple public drug use and
3 possession offenses are best equipped to be lifesaving interventions for those struggling with
4 deadly addictions; and, be it

5 FURTHER RESOLVED, That the San Francisco Board of Supervisors urges relevant
6 city agencies to familiarize themselves with Proposition 36's newly enacted provisions in
7 responding to Supervisor Matt Dorsey's September 10, 2024, Letter of Inquiry (LOI), which
8 seeks a needs assessment to ramp up the use of court-mandated drug treatment options to
9 more effectively abate public drug use in San Francisco; and, be it

10 FURTHER RESOLVED, That the San Francisco Board of Supervisors urges the San
11 Francisco Superior Court to recognize that fulfilling voters' will in passing Proposition 36 will
12 require that misdemeanor convictions be obtained for most cases involving drug possession
13 and public drug use, and that voters' intent in making TMFs available to courts and
14 prosecutors is to best protect the life and safety of individuals afflicted with Substance-Use
15 Disorders when they are charged with multiple such offenses; and, be it

16 FURTHER RESOLVED, That the San Francisco Board of Supervisors urges that
17 Proposition 36's implementation adhere to the following principles in keeping with our civic
18 values: that equity govern our prioritization of enforcement efforts, acknowledging the
19 disproportionate harms open-air drug scenes inflict on socio-economically marginalized
20 communities; that criminal justice interventions for drug possession and public drug use be
21 approached as life-saving inventions, ensuring access to appropriate medication and drug
22 treatment options; that expungement of all charges for drug possession or public drug use
23 should be a guaranteed condition for successfully completing any court-mandated drug
24 treatment program; and that all efforts related to Proposition 36 affirm the human dignity of
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1 those with Substance-Use Disorders, destigmatizing drug addiction while unequivocally de-
2 normalizing public drug use and deadly behavior; and, be it

3 FURTHER RESOLVED, That the Clerk of the San Francisco Board of Supervisors is
4 hereby directed to transmit this Resolution to the San Francisco Police Department; the San
5 Francisco Fire Department; the San Francisco Sheriff's Office; the San Francisco District
6 Attorney's Office; the San Francisco Director of Public Health; and the Presiding Judge of the
7 San Francisco Superior Court.

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