

1 [Planning Code - Zoning - Establishing Standards for Bird-Safe Buildings]

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3 **Ordinance amending the San Francisco Planning Code by: 1) adding Section 139 to**  
 4 **establish standards for bird-safe buildings to help reduce injury and mortality in birds**  
 5 **caused by certain types of new construction, replacement facades, and building**  
 6 **features; 2) amending Section 145.1 to allow for exceptions to transparency and**  
 7 **fenestration requirements to meet standards for bird-safe buildings; and 3) adopting**  
 8 **findings, including environmental findings and findings of consistency with the**  
 9 **General Plan and Planning Code Section 101.1.**

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

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

14 Section 1. Findings. The Board of Supervisors of the City and County of San  
 15 Francisco (hereinafter "Board") hereby finds and determines that:

16 (a) General Findings.

17 (1) Over thirty years of research has proven certain building features, such as  
 18 location near open space, reflective/transparent glass, lighting, and other design elements, to  
 19 be biologically significant in causing death or injury to birds. Studies have determined that  
 20 annual bird fatalities in North America from window collisions may be as high as 1 billion birds  
 21 per year and that building collisions are a threat of significant magnitude to affect the viability  
 22 of bird populations, leading to local, regional, and national declines.

23 (2) The majority of these deaths are foreseeable and avoidable through a variety of  
 24 different building design modifications including, but not limited to, the use of fritting, frosting,  
 25 screens, architectural features (overhangs, louvers, awnings), ultra-violet glass, angling and

1 film and art treatment of glass, and lighting modifications. It is anticipated that more options  
2 will continue to be developed through new research and creative design.

3 (3) San Francisco has almost 400 different bird species, located along the Pacific  
4 Flyway, and has numerous open spaces. Bird groups, local animal control agencies, and  
5 building owners have noted bird strikes at San Francisco buildings.

6 (4) On October 8, 2009, the San Francisco Planning Commission (hereinafter  
7 "Commission") requested that the Department present information on Bird-Friendly Building  
8 Standards as developed by cities within North America and in other countries. Information  
9 was provided at this hearing by the Department and the American Bird Conservancy.

10 (5) On February 5, 2009, the Commission received information from the  
11 Department on San Francisco's "Lights Out for Birds" program in response to a  
12 Commissioner's request.

13 (4) In October 2010, the Department released a draft document entitled "Standards  
14 for Bird-Safe Buildings" that summarizes major research, presents design recommendations,  
15 and proposes a three-tiered approach to the problem that includes: 1) establishment of  
16 building requirements for the most hazardous conditions; 2) use of an educational checklist to  
17 educate project sponsors and their future tenants on potential hazards; and 3) creation and  
18 expansion of voluntary programs to encourage more bird-safe practices, including  
19 acknowledging those who pursue certification through a new program for "bird-safe building"  
20 recognition.

21 (5) On October 14, 2010, the Commission conducted a duly noticed public hearing  
22 at a regularly scheduled meeting to consider the draft document titled "Standards for Bird-  
23 Safe Buildings." The Commission heard and considered testimony presented to it at the  
24 public hearing and further considered written materials and oral testimony presented on behalf  
25 of the applicant, the Department, and other interested parties.

1 (6) At the October 14, 2010 hearing, the Commission directed the Department to  
2 collect public comment through the end of 2010, consider revisions to the document based on  
3 the comments received, and return in 2011 with a draft Ordinance for the Commission's  
4 consideration that would implement proposed controls and adopt a final "Standards for Bird-  
5 Safe Buildings" document.

6 (b) General Plan, Planning Code and Environmental Findings.

7 (1) At a duly noticed public hearing on \_\_\_\_\_, in  
8 Resolution No. \_\_\_\_\_, the Commission adopted the policy document titled "Standards  
9 for Bird-Safe Buildings Spring 2011" and recommended approval of the draft Ordinance that  
10 would amend the Planning Code to implement this Commission policy. A copy of said  
11 Resolution is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and  
12 is incorporated herein by reference.

13 (2) The Planning Commission in Resolution No. \_\_\_\_\_ found that the  
14 proposed Planning Code amendments contained in this Ordinance were, on balance,  
15 consistent with the City's General Plan and with Planning Code Section 101.1(b). In addition,  
16 the Commission recommended that the Board adopt the proposed Planning Code  
17 amendments. The Board finds that the proposed Planning Code amendments contained in  
18 this Ordinance are consistent with the City's General Plan and with Planning Code Section  
19 101.1(b) for the reasons set forth in said Resolution.

20 (3) Pursuant to Planning Code Section 302, the Board finds that the proposed  
21 Ordinance will serve the public necessity, convenience and welfare for the reasons set forth in  
22 Planning Commission Resolution No. \_\_\_\_\_, which reasons are incorporated herein  
23 by reference as though fully set forth.

24 (4) Environmental Findings. The Planning Department has determined that the  
25 actions contemplated in this Ordinance are in compliance with the California Environmental

1 Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is  
2 on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is  
3 incorporated herein by reference.

4 Section 2. The San Francisco Planning Code is hereby amended by adding Section  
5 139, to read as follows:

6 **SEC. 139. STANDARDS FOR BIRD-SAFE BUILDINGS.**

7 **(a) Purpose.** *The purpose of this Section is to establish Bird-Safe Standards for new*  
8 *building construction and replacement facades to reduce bird mortality from circumstances that are*  
9 *known to pose a high risk to birds and are considered to be “bird hazards”. The two circumstances*  
10 *regulated by this Section are 1) location-related hazards, where the siting of a structure creates*  
11 *increased risk to birds and 2) feature-related hazards, which may create increased risk to birds*  
12 *regardless of where the structure is located. Location-related hazards are created by structures that*  
13 *are near or adjacent to large open spaces and/or water. When structures are located in such an area,*  
14 *the portion of the structure most likely to sustain bird-strikes requires façade treatments. Even if a*  
15 *structure is not located near a locational hazard, particular building features also may create a hazard*  
16 *for birds. Structures that create such a feature-related hazard are required to treat all of the feature-*  
17 *related hazard. While these controls do not apply retroactively, the purpose of these controls is to*  
18 *ensure that new construction that is bird-safe and to decrease existing bird-hazards over time.*

19 **(b) Definitions.**

20 **(1) Bird-Safe Glazing Treatment.** *Bird-Safe Glazing Treatment may include fritting,*  
21 *netting, permanent stencils, frosted glass, exterior screens, physical grids placed on the exterior of*  
22 *glazing or UV patterns visible to birds. To qualify as Bird-Safe Glazing Treatment vertical elements of*  
23 *window patterns should be at least 1/4 inch wide at a minimum spacing of 4 inches or horizontal*  
24 *elements at least 1/8 inch wide at a maximum spacing of 2 inches.*

1           (2) **Bird Hazard.** Specific circumstances that create a hazard for birds due to either the  
2 location of the building or due to specific building features that increase the risk of bird-building  
3 collisions as described under (c) below.

4           (c) **Controls.** The following Bird-Safe Standards shall apply to: 1) new construction, 2)  
5 building additions that create a Bird Hazard, or 3) the replacement of 50% or more of the glazing on  
6 an existing Bird Hazard. Additions to existing buildings subject to this subsection are required only to  
7 treat the new building addition. Bird Hazards consist of: 1) location-related hazards and 2) feature-  
8 related hazards and the standards specified below shall apply to structures that present these hazards.

9           (1) **Location-Related Standards.** These standards apply to buildings located inside of open  
10 spaces two acres and larger dominated by vegetation, including vegetated landscaping, forest,  
11 meadows, grassland, or wetlands, or open water (hereinafter an Urban Bird Refuge). These standards  
12 also shall apply to buildings less than 300 feet from an Urban Bird Refuge if such buildings are in an  
13 unobstructed line to the refuge. The standards are as follows:

14           (A) **Facade Requirement.** Bird-Safe Glazing Treatment is required such that the  
15 Bird Collision Zone, as defined below, facing the Urban Bird Refuge consists of no more than 10%  
16 untreated glazing. Building owners are encouraged to concentrate permitted transparent glazing on the  
17 ground floor and lobby entrances to enhance visual interest for pedestrians. The Bird Collision Zone  
18 shall mean the portion of buildings most likely to sustain bird-strikes from local and migrant birds in  
19 search of food and shelter and includes:

20           (i) The building façade beginning at grade and extending upwards for 60 feet, or  
21 (ii) Glass facades directly adjacent to landscaped roofs 2 acres or larger and  
22 extending upwards 60 feet from the level of the subject roof.

23           (B) **Lighting.** Minimal lighting shall be used. Lighting shall be shielded. No  
24 uplighting shall be used. Event searchlights are be prohibited on property subject to these controls.

1            (C) **Wind Generation.** Wind generators in this area shall be vertical access  
2 generators that present a solid blade appearance.

3            (2) **Feature-Related Standards.** Feature-related hazards include free-standing glass walls,  
4 wind barriers, skywalks, balconies, and greenhouses on rooftops that have unbroken glazed segments  
5 24 square feet and larger in size. Feature-related hazards can occur throughout the City. Any  
6 structure that contains these elements shall treat 100% of the glazing on Feature-Specific hazards.

7            (3) **Exceptions.** Certain exceptions apply to this Section as set forth below.

8            (A) **Certain Exceptions for Location-Related Standards to be Applied to**  
9 **Residential Buildings within R-Districts.**

10            (i) **Limited Glass Façade.** Residential buildings within R-Districts that are less than  
11 45 feet in height and have an exposed façade comprised of less than 50% glass are exempt from new or  
12 replacement façade glazing requirements included in Section 139(c)(1) Location-Related Standards.

13            (ii) **Substantial Glass Façade.** Residential buildings that are less than 45 feet in  
14 height but have a façade with surface area composed of more than 50% glass, shall provide glazing  
15 treatments as described in Section 139(c)(1)(A) for 95% of all large, unbroken glazed segments that  
16 are 24 square feet and larger.

17            (B) **General Exceptions for Historic Buildings.** Treatment of replacement glass  
18 facades for structures designated as City landmarks or within landmark districts pursuant to Article 10  
19 of the Planning Code, or any building Category I-IV or Category V within a Conservation District  
20 pursuant to Article 11 of the Planning Code, shall conform to Secretary of Interior Standards for  
21 Rehabilitation of Historic Properties. Reversible treatment methods such as netting, glass films, grates,  
22 and screens are recommended. Netting or any other method demonstrated to protect historic buildings  
23 from pest species that meets the Specifications for Bird-Safe Glazing Treatment stated above also may  
24 be used to fulfill the requirement.

1                    (C) **General Waivers and Modifications.** The Zoning Administrator may either  
2 waive the requirements contained within Section 139(c)(1) and Section 139(c)(2) or modify such  
3 requirements to allow equivalent Bird-Safe Glazing Treatments upon the recommendation of a  
4 qualified biologist.

5                    Section 3. The San Francisco Planning Code is hereby amended by amending Section  
6 145.1, to read as follows:

7                    SEC. 145.1. **STREET FRONTAGES, NEIGHBORHOOD COMMERCIAL,**  
8 **RESIDENTIAL-COMMERCIAL, COMMERCIAL, AND MIXED USE DISTRICTS.**

9                    (a) **Purpose.** The purpose of this Section is to preserve, enhance and promote  
10 attractive, clearly defined street frontages that are pedestrian-oriented, fine-grained, and  
11 which are appropriate and compatible with the buildings and uses in Neighborhood  
12 Commercial Districts, Commercial Districts, Residential-Commercial Districts, Mixed Use  
13 Districts.

14                    (b) **Definitions.**

15                    (1) **Development lot.** A "development lot" shall mean:

16                    (A) Any lot containing a proposal for new construction, or

17                    (B) Building alterations which would increase the gross square footage of a  
18 structure by 20 percent or more, or

19                    (C) In a building containing parking, a change of more than 50 percent of the  
20 building's gross floor area to or from residential uses, excluding residential accessory off-  
21 street parking.

22                    (2) **Active use.** An "active use", shall mean any principal, conditional, or accessory  
23 use which by its nature does not require non-transparent walls facing a public street or  
24 involves the storage of goods or vehicles.

1 (A) Residential uses are considered active uses above the ground floor; on  
2 the ground floor, residential uses are considered active uses only if more than 50 percent of  
3 the linear residential street frontage at the ground level features walk-up dwelling units which  
4 provide direct, individual pedestrian access to a public sidewalk, and are consistent with the  
5 Ground Floor Residential Design Guidelines, as adopted and periodically amended by the  
6 Planning Commission.

7 (B) Spaces accessory to residential uses, such as fitness or community  
8 rooms, are considered active uses only if they meet the intent of this section and have access  
9 directly to the public sidewalk or street.

10 (C) Building lobbies are considered active uses, so long as they do not  
11 exceed 40 feet or 25% of building frontage, whichever is larger.

12 (D) Public Uses described in 790.80 and 890.80 are considered active uses  
13 except utility installations.

14 (c) **Controls.** The following requirements shall generally apply, except for those  
15 controls listed in subsections (1) Above Grade Parking Setback and (4) Ground Floor Ceiling  
16 Height, which only apply to a "development lot" as defined above.

17 In NC-S Districts, the applicable frontage shall be the primary facade(s) which contain  
18 customer entrances to commercial spaces.

19 (1) **Above-Grade Parking Setback.** Off-street parking at street grade on a  
20 development lot must be set back at least 25 feet on the ground floor and at least 15 feet on  
21 floors above, from any facade facing a street at least 30 feet in width. Parking above the  
22 ground level shall be entirely screened from all public rights-of-way in a manner that  
23 accentuates ground floor uses, minimizes mechanical features and is in keeping with the  
24 overall massing and architectural vocabulary of the building. In C-3 Districts, parking above  
25 the ground level, where permitted, shall also be designed to facilitate conversion to other uses

1 by maintaining level floors and a clear ceiling height of nine feet or equal to that of the  
2 adjacent street-fronting active uses, whichever is greater. Removable parking ramps are  
3 excluded from this requirement.

4 The following shall apply to projects subject to this section:

5 (A) when only one parking space is permitted, if a space is proposed it must  
6 be within the first 25 feet of the building;

7 (B) when two or more parking spaces are proposed, one space may be  
8 within the first 25 feet of the building;

9 (C) when three or more parking spaces are proposed, all parking spaces  
10 must be set back at least 25 feet from the front of the development.

11 (2) **Parking and Loading Entrances.** No more than one-third of the width or 20  
12 feet, whichever is less, of any given street frontage of a new or altered structure parallel to  
13 and facing a street shall be devoted to parking and loading ingress or egress. In NC-S  
14 Districts, no more than one-third or 50 feet, whichever is less, of each lot frontage shall be  
15 devoted to ingress/egress of parking. Street-facing garage structures and garage doors may  
16 not extend closer to the street than a primary building facade unless the garage structure and  
17 garage door are consistent with the features listed in Section 136 of this Code. The total  
18 street frontage dedicated to parking and loading access should be minimized, and combining  
19 entrances for off-street parking with those for off-street loading is encouraged. The placement  
20 of parking and loading entrances should minimize interference with street-fronting active uses  
21 and with the movement of pedestrians, cyclists, public transit, and autos. Entrances to off-  
22 street parking shall be located at least six feet from a lot corner located at the intersection of  
23 two public rights-of-way. Off-street parking and loading entrances should minimize the loss of  
24 on-street parking and loading spaces. Off-street parking and loading are also subject to the  
25 provisions of Section 155 of this Code. In C-3 Districts, so as not to preclude the conversion

1 of parking space to other uses in the future, parking at the ground-level shall not be sloped,  
2 and the floor shall be aligned as closely as possible to sidewalk level along the principal  
3 pedestrian frontage and/or to those of the street-fronting commercial spaces and shall have a  
4 minimum clear ceiling height of 14 feet or equal to that of street-fronting commercial spaces,  
5 whichever is greater. Removable parking ramps are excluded from this requirement.

6 (3) **Active Uses Required.** With the exception of space allowed for parking and  
7 loading access, building egress, and access to mechanical systems, space for active uses as  
8 defined in Subsection (b)(2) and permitted by the specific district in which it is located shall be  
9 provided within the first 25 feet of building depth on the ground floor and 15 feet on floors  
10 above from any facade facing a street at least 30 feet in width. Building systems including  
11 mechanical, electrical, and plumbing features may be exempted from this requirement by the  
12 Zoning Administrator only in instances where those features are provided in such a fashion as  
13 to not negatively impact the quality of the ground floor space.

14 (4) **Ground Floor Ceiling Height.** Unless otherwise established elsewhere in this  
15 Code:

16 (A) Ground floor non-residential uses in UMU Districts shall have a minimum  
17 floor-to-floor height of 17 feet, as measured from grade.

18 (B) Ground floor non-residential uses in all C-3, C-M, NCT, DTR, Chinatown  
19 Mixed Use, RSD, SLR, SLI, SSO, MUG, MUR, and MUO Districts shall have a minimum floor-  
20 to-floor height of 14 feet, as measured from grade.

21 (C) Ground floor non-residential uses in all RC districts, C-2 districts, RED  
22 districts, and NC districts other than NCT, shall have a minimum floor-to-floor height of 14  
23 feet, as measured from grade except in 40-foot and 50-foot height districts, where buildings  
24 shall have a minimum floor-to-floor height of 10 feet.

1           (5)     **Street-Facing Ground-Level Spaces.** The floors of street-fronting interior  
2 spaces housing non-residential active uses and lobbies shall be as close as possible to the  
3 level of the adjacent sidewalk at the principal entrance to these spaces. Street-facing ground-  
4 level spaces housing non-residential active uses in hotels, office buildings, shopping centers,  
5 and other large buildings shall open directly onto the street, rather than solely into lobbies and  
6 interior spaces of the buildings. Such required street-facing entrances shall remain open to  
7 the public during business hours.

8           (6)     **Transparency and Fenestration.** Frontages with active uses that are not  
9 residential or PDR must be fenestrated with transparent windows and doorways for no less  
10 than 60 percent of the street frontage at the ground level and allow visibility to the inside of the  
11 building. The use of dark or mirrored glass shall not count towards the required transparent  
12 area. Buildings located inside of, or within an unobstructed line of less than 300 feet of an Urban Bird  
13 Refuge, as defined in Section 139(c)(1), shall follow glazing requirements within Section 139(c) of this  
14 Code.

15           (7)     **Gates, Railings, and Grillwork.** Any decorative railings or grillwork, other than  
16 wire mesh, which is placed in front of or behind ground floor windows, shall be at least 75  
17 percent open to perpendicular view. Rolling or sliding security gates shall consist of open  
18 grillwork rather than solid material, so as to provide visual interest to pedestrians when the  
19 gates are closed, and to permit light to pass through mostly unobstructed. Gates, when both  
20 open and folded or rolled as well as the gate mechanism, shall be recessed within, or laid  
21 flush with, the building facade.

22           (d)     **Exceptions for Historic Buildings.** Specific street frontage requirements in this  
23 Section may be modified or waived by the Planning Commission for structures designated as  
24 landmarks, significant or contributory buildings within a historic district, or buildings of merit  
25 when the Historic Preservation Commission advises that complying with specific street

1 frontage requirements would adversely affect the landmark, significant, contributory, or  
2 meritorious character of the structure, or that modification or waiver would enhance the  
3 economic feasibility of preservation of the landmark or structure.

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5  
6 APPROVED AS TO FORM:  
7 DENNIS J. HERRERA, City Attorney

8 By: \_\_\_\_\_  
9 John D. Malamut  
10 Deputy City Attorney