

1 [Zoning – Establishing Standards for Bird-Safe Buildings]

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3 **Ordinance amending the San Francisco Planning Code by 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; amending Section 145.1 to allow for exceptions to transparency and**
 7 **fenestration requirements to meet Standards for Bird-Safe Buildings; and 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 Resolution No.
8 _____, the Commission adopted the policy document titled "Standards for Bird-Safe
9 Buildings Spring 2011" and recommended approval of the draft Ordinance that would amend
10 the Planning Code to implement this Commission policy. A copy of said Resolution is on file
11 with the Clerk of the Board of Supervisors in File No. _____ and is incorporated
12 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 These controls shall apply to all structures subject to this Section regardless of whether the
10 ownership or use is public or private.

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

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

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

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

3 (C) **Wind Generation.** Wind generators in this area shall ~~be vertical access~~
4 generators that present a solid blade appearance comply with the Planning Department's
5 permitting requirements, including any monitoring of wildlife impacts that the Department may
6 require.

7 (2) **Feature-Related Standards.** Feature-related hazards include free-standing glass walls,
8 wind barriers, skywalks, balconies, and greenhouses on rooftops that have unbroken glazed segments
9 24 square feet and larger in size. Feature-related hazards can occur throughout the City. Any
10 structure that contains these elements shall treat 100% of the glazing on Feature-Specific hazards.

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

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

14 (i) **Limited Glass Façade.** Residential buildings within R-Districts that are less than
15 45 feet in height and have an exposed façade comprised of less than 50% glass are exempt from new or
16 replacement façade glazing requirements included in Section 139(c)(1) Location-Related Standards.

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

21 (B) **General Exceptions for Historic Buildings.** Treatment of replacement glass
22 facades for structures designated as City landmarks or within landmark districts pursuant to Article 10
23 of the Planning Code, or any building Category I-IV or Category V within a Conservation District
24 pursuant to Article 11 of the Planning Code, shall conform to Secretary of Interior Standards for
25 Rehabilitation of Historic Properties. Reversible treatment methods such as netting, glass films, grates,

1 and screens are recommended. Netting or any other method demonstrated to protect historic buildings
2 from pest species that meets the Specifications for Bird-Safe Glazing Treatment stated above also may
3 be used to fulfill the requirement.

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

8 Section 3. The San Francisco Planning Code is hereby amended by amending Section
9 145.1, to read as follows:

10 SEC. 145.1. **STREET FRONTAGES, NEIGHBORHOOD COMMERCIAL,**
11 **RESIDENTIAL-COMMERCIAL, COMMERCIAL, AND MIXED USE DISTRICTS.**

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

17 (b) **Definitions.**

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

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

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

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

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

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

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

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

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

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

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

22 (1) **Above-Grade Parking Setback.** Off-street parking at street grade on a
23 development lot must be set back at least 25 feet on the ground floor and at least 15 feet on
24 floors above, from any facade facing a street at least 30 feet in width. Parking above the
25 ground level shall be entirely screened from all public rights-of-way in a manner that

1 accentuates ground floor uses, minimizes mechanical features and is in keeping with the
2 overall massing and architectural vocabulary of the building. In C-3 Districts, parking above
3 the ground level, where permitted, shall also be designed to facilitate conversion to other uses
4 by maintaining level floors and a clear ceiling height of nine feet or equal to that of the
5 adjacent street-fronting active uses, whichever is greater. Removable parking ramps are
6 excluded from this requirement.

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

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

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

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

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

1 two public rights-of-way. Off-street parking and loading entrances should minimize the loss of
2 on-street parking and loading spaces. Off-street parking and loading are also subject to the
3 provisions of Section 155 of this Code. In C-3 Districts, so as not to preclude the conversion
4 of parking space to other uses in the future, parking at the ground-level shall not be sloped,
5 and the floor shall be aligned as closely as possible to sidewalk level along the principal
6 pedestrian frontage and/or to those of the street-fronting commercial spaces and shall have a
7 minimum clear ceiling height of 14 feet or equal to that of street-fronting commercial spaces,
8 whichever is greater. Removable parking ramps are excluded from this requirement.

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

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

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

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

24 (C) Ground floor non-residential uses in all RC districts, C-2 districts, RED
25 districts, and NC districts other than NCT, shall have a minimum floor-to-floor height of 14

1 feet, as measured from grade except in 40-foot and 50-foot height districts, where buildings
2 shall have a minimum floor-to-floor height of 10 feet.

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

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

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

24 (d) **Exceptions for Historic Buildings.** Specific street frontage requirements in this
25 Section may be modified or waived by the Planning Commission for structures designated as

1 landmarks, significant or contributory buildings within a historic district, or buildings of merit
2 when the Historic Preservation Commission advises that complying with specific street
3 frontage requirements would adversely affect the landmark, significant, contributory, or
4 meritorious character of the structure, or that modification or waiver would enhance the
5 economic feasibility of preservation of the landmark or structure.

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

10 By: _____
11 John D. Malamut
12 Deputy City Attorney

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