

ORDINANCE NO. -N.S.

BIRD SAFE BUILDING

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That the Berkeley Municipal Code is amended to add a new Section 23.304.150 to read as follows:

**23.304.150 Bird Safe Building.**

**A. Purpose.** The purpose of this section is to reduce bird mortality from windows and other transparent buildings or building features known to increase the risk of bird collisions.

**B. Applicability.**

1. *Applicability.* The bird safe building requirements apply to the following types of projects based on the primary land use when such projects require a building permit.

**Table 1 - 23.304-10. Bird Safe Building Requirement Applicability**

<b>Project Type</b>	<b>Applicable Building Location(s)</b>	<b>Supplemental Standards</b>
<b>Non-Residential</b>		
New Construction or Addition	All transparent or reflective material located between the ground and 100 ft. above grade.	
New or Replacement Transparent or Reflective Material on Existing Building	All transparent or reflective material located between the ground and 100 ft. above grade.	23.304.150(B)(2)(a), 23.304.150(B)(2)(b)
New or Replacement Transparent or Reflective Buildings or Features	All transparent or reflective material, including but not limited to, freestanding glass walls, noise or wind barriers, skyways, balconies, greenhouses, and rooftop appurtenances.	23.304.150(B)(2)(a)
<b>Residential or Mixed Use</b>		
New Construction or Addition, Building with 10,000 sq. ft. or	All transparent or reflective material located between the ground and 100 ft. above grade.	23.304.150(B)(2)(d)

more of gross floor area		
New Construction or Addition, Building with less than 10,000 sq. ft. of gross floor area	All transparent or reflective material located between the ground and 100 ft. above grade.	23.304.150(B)(2)(b), 23.304.150(B)(2)(d)
New or Replacement Transparent or Reflective Material on Existing Building	All transparent or reflective material between the ground and 100 ft. above grade.	23.304.150(B)(2)(a), 23.304.150(B)(2)(c), 23.304.150(B)(2)(d)
New or Replacement Transparent or Reflective Buildings or Features	All transparent or reflective material, including but not limited to, freestanding glass walls, noise or wind barriers, skyways, balconies, greenhouses, and rooftop appurtenances.	23.304.150(B)(2)(a)

## 2. Phasing and Exemptions.

- a. *No Replacement.* The bird safe building requirements do not apply to existing windows or other transparent materials that are not proposed to be replaced.
- b. *Phase-In for Existing Non-Residential or New Smaller Residential Buildings with Lower Hazard Facades.* Buildings where every façade's total square footage consists of less than 30 percent transparent material are exempt through January 1, 2025. If one or more façade contains 30 percent or more transparent material in its total square footage, all transparent or reflective materials between the ground and 100 feet above grade on the subject building shall meet 23.304.150(C) (Bird Safe Requirements).
- c. *Phase-In for Existing Residential Buildings with Lower Hazard Facades.* Buildings where every façade's total square footage consists of less than 30 percent transparent material are exempt through January 1, 2028. If one or more façade contains 30 percent or more transparent material in its total square footage, all transparent or reflective materials between the ground and 100 feet above grade on

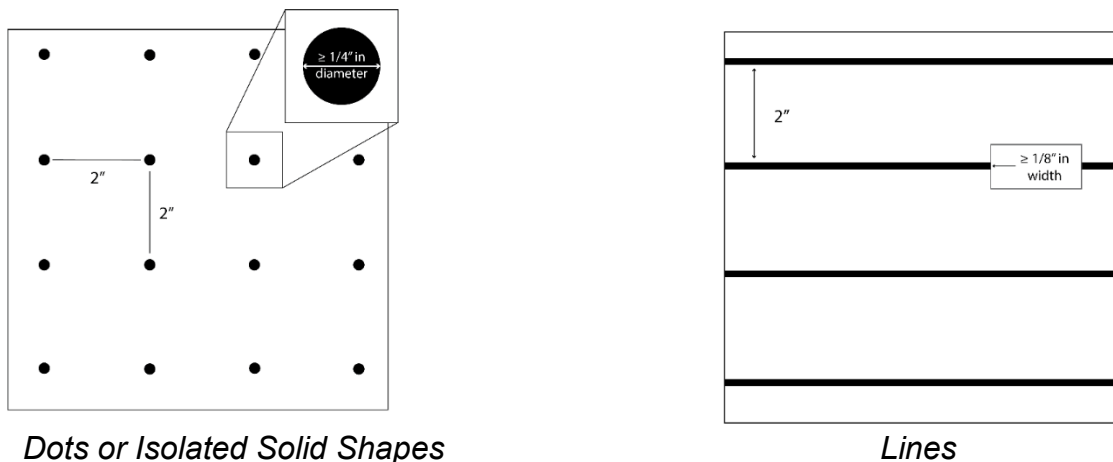
the subject building shall meet 23.304.150(C) (Bird Safe Requirements).

- d. *Phase-In for Affordable Housing.* Residential projects, including the residential portion of mixed-use projects, where greater than 50 percent of the residential unit floor area are subject to recorded affordability restrictions, are exempt from the provisions of this section until January 1, 2025, except that New or Replacement Transparent Buildings or Features as described in Table 1 – 23.304-10 are not exempt.

**C. Bird Safe Requirements.** Any regulated continuous transparent material must meet at least one of the following conditions:

1. *Threat Factor Rating.* A product with an American Bird Conservancy Threat Factor Rating of 30 or less.
2. *Patterned Glazing Treatment.* Panes with patterns that are etched, fritted, stenciled, silk-screened, or otherwise permanently incorporated into the transparent material. If the pattern utilizes dots or other isolated solid shapes, each dot or shape must be at least a  $\frac{1}{4}$  inch in diameter and be no more than 2 feet apart in any direction (see Figure 23.304-2, left). If the pattern utilizes lines, they must be at least  $\frac{1}{8}$  inch in width and spaced no more than 2 inches apart (see Figure 23.304-2, left).

**Figure 23.304-2 Patterned Glazing Treatment Requirements**



*Dots or Isolated Solid Shapes*

*Lines*

3. *External Screens, Shutters, or Shading Devices.* Panes with exterior screens, shutters or shading devices installed permanently over windows, structures, or building features such that there is no gap larger than 9 inches in one dimension. Building integrated treatments include, but are not limited to, metal screens, shutters, fixed solar shading such as louvres, and exterior insect or solar screens.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.