



# SAN FRANCISCO PLANNING DEPARTMENT

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## Letter of Determination

April 19, 2016

Steve Bruckman  
City College of San Francisco  
50 Phelan Avenue, B-213  
San Francisco CA 94112

**Site Address:** 33 Gough Street  
**Assessor's Block/Lot:** 3504/029  
**Zoning District:** Public (P) District  
**Staff Contact:** Jonathan DiSalvo, (415) 575-9182 or [jonathan.disalvo@sfgov.org](mailto:jonathan.disalvo@sfgov.org)  
**Record No.:** 2016-002869ZAD

Dear Mr. Bruckman:

This letter is in response to your request for a Letter of Determination regarding the property at 33 Gough Street. This parcel is located in the P (Public) Zoning District and 85-X Height and Bulk District. The request is whether the Board of Trustees of the San Francisco Community College District would qualify as a "City Board or Commission with jurisdiction over the property" as described in Planning Code Section 211.1(g).

Planning Code Section 211.1 outlines principal uses permitted in P Districts. Subsection (g) allows any temporary uses not otherwise identified in the temporary use provisions of the Planning Code (Sections 205 et. seq.) provided that enabling action for the use is taken by either the Board of Supervisors, the Recreation and Parks Commission, the Municipal Transportation Agency Board of Directors, or other City Board or Commission with jurisdiction over the property. Further, this section requires that any such temporary use is (1) limited to a renewable period of no more than three years as approved by the Zoning Administrator; and (2) of a nature such that the property on which the temporary use is located can be readily returned to the state in which it existed immediately prior to the commencement of the temporary use.

For the reason that the Board of Trustees of the San Francisco Community College District has assumed the function and responsibility for the control and direction of the District<sup>1</sup>, it is determined that the Board of Trustees is a qualifying City Board with jurisdiction over the subject property for the purposes of Section 211.1(g). As such, the Board of Trustees may authorize a temporary use on the subject property pursuant to the requirements of Section 211.1(g).

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<sup>1</sup> **Source:** City College of San Francisco. 2012. San Francisco Community College District Policy Manual. 1.02 Powers and Duties of the Board. Accessed here: [http://www.ccsf.edu/Policy/Manuals/1/bp1\\_02.pdf](http://www.ccsf.edu/Policy/Manuals/1/bp1_02.pdf)

1650 Mission St.  
Suite 400  
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CA 94103-2479

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**415.558.6378**

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**415.558.6409**

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Information:  
**415.558.6377**

Steve Bruckman  
City College of San Francisco  
50 Phelan Avenue, B-213  
San Francisco CA 94112

April 19, 2016  
Letter of Determination  
33 Gough Street

Your request also sought confirmation as to whether this Letter of Determination would constitute the necessary approval of the Zoning Administrator for the authorization of temporary uses at the subject site as required by Section 211.1(g). It is determined, however, that this Letter of Determination does not constitute an approval of the temporary use by the Zoning Administrator. This Letter represents an interpretation of the Planning Code, and does not constitute an authorizing action. To authorize a temporary use at this location that is not otherwise outlined in the temporary use provisions of the Planning Code (Sections 205 et. seq.), the following must occur. First, an enabling action must be taken by the Board of Trustees in regard to a proposed temporary uses at the subject site. Secondly, a Temporary Use Authorization must be submitted for the proposed use (see attached - .pdf fillable versions are available on our website). Approval of the Temporary Use Authorization would then constitute an approval action of temporary uses at the subject site, subject to the provisions of Planning Code Section 211.1(g).

**Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.**

**APPEAL:** If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,



Scott F. Sanchez  
Zoning Administrator

Attachment: Temporary Use Authorization

cc: Jonathan DiSalvo, Planner  
Property Owner  
Neighborhood Groups



SAN FRANCISCO  
**PLANNING**  
DEPARTMENT

## APPLICATION PACKET FOR

# Temporary Use Authorization

Planning Department  
1650 Mission Street  
Suite 400  
San Francisco, CA  
94103-9425

T: 415.558.6378  
F: 415.558.6409

**Pursuant to Planning Code Section 205, certain uses may be permitted on a temporary basis in cases where they may not otherwise be permitted.**

**Planning Department staff are available to advise you in the preparation of this application. Call (415) 558-6377 for further information.**

**Revised April 2015**

### WHAT IS A TEMPORARY USE AUTHORIZATION?

A Temporary Use Authorization permits a specific land use for a limited period of time on a particular parcel. Temporary Use Authorizations are typically not associated with significant construction activity; they authorize such short-term uses as mobile food facilities, seasonal Christmas tree and pumpkin sales, construction trailers, and festivals or exhibitions. A Temporary Use Authorization from the Planning Department is frequently one of a number of City permits required to operate a temporary use. The Fire, Police, and Health Departments, among others, may also require separate permits before such can commence operations.

While a Temporary Use Authorization permits a specific use or activity on a given parcel, it does not authorize any construction-related activities. Construction, demolition, or alteration of a structure - regardless of association with a temporary use - are subject to the permitting requirements of the Department of Building Inspection (DBI).

### WHEN IS A TEMPORARY USE AUTHORIZATION NECESSARY?

If a particular use is not intended to be permanent and complies with applicable restrictions found in Planning Code Section 205 et. seq, a Temporary Use Authorization may be appropriate. A Temporary Use Authorization may permit a particular use for a period of time ranging from 1 day to 2 years, subject to conditions. Further time may be authorized only by action upon a new application. Temporary Use Authorizations may only be granted for individual parcels; they may not be authorized within any public right-of-way (e.g. streets or sidewalks). If a proposed temporary activity would be conducted within a public right-of-way, an alternate permitting process administered by the Department of Public Works is required.

### HOW DOES THE PROCESS WORK?

Many applications can be reviewed and acted upon on an 'over-the-counter' basis. In general, temporary uses may be authorized by the Zoning Administrator or his designee without a public hearing. Note that a Temporary Use Authorization is valid only for the specific duration and frequency noted on the permit. Subsequent applications are required to continue operation of the use. Upon expiration of the Temporary Use Authorization, the premises must be cleared of any associated structures and rubbish and left in a neat and attractive state.

## WHO MAY APPLY FOR A TEMPORARY USE AUTHORIZATION?

A Temporary Use Authorization is associated with a particular property rather than a particular business or individual. Therefore, only the property owner or a party designated as the owner's agent may submit a Temporary Use Authorization Application. An applicant's signature on the attached application establishes under penalty of perjury that the applicant is acting as a designated agent of the owner.

## INSTRUCTIONS

Applicants must fill out the attached application and present it in person to Department Staff at the Planning Information Center (PIC), located on the first floor of 1660 Mission Street (between Duboce and South Van Avenues), along with a check payable to the San Francisco Planning Department. The PIC is open during regular business hours; no appointment is necessary. Application materials will not be accepted by mail, messenger or at the Planning Department's reception desk.

Please refer to the Planning Department's Fee Schedule, available at [www.sfplanning.org](http://www.sfplanning.org) or at the PIC, for the particular fee amount. Note that should the cost of staff time exceed the initial fee paid, an additional fee for time and materials may be billed upon completion of the permit review process. Additional fees may also be collected for preparation and recordation of any documents with the San Francisco Assessor-Recorder's office and for monitoring compliance with any conditions of approval.

Depending on the nature of your particular proposal, additional information may be required before your application is considered complete. This information may include (1) photographs of the subject property and (2) an accurate plot plan depicting existing and proposed conditions on both the subject property and on immediately adjoining properties. Open spaces, driveways, parking areas, trees, and land contours where relevant may also be required. Department staff will assist in determining what, if any, additional materials are required. All photographs, plans and other materials will be retained as part of the permanent public record of this Application.

## TEMPORARY USE AUTHORIZATIONS AND THE AUTHORITY OF OTHER CITY DEPARTMENTS AND COMMISSIONS

This Temporary Use Authorization is a land-use and zoning approval only. It does not establish any right to conduct activities that require authorization from other City Departments (e.g. the Entertainment Commission, Fire Department, Health Department, Police Department, etc).

Should such authorization be required, you must first obtain it before commencing the proposed use. Failure to do so may result in the immediate revocation of this Temporary Use Authorization as well as monetary penalties pursuant to Planning Code Section 1.7.

We strongly advise that applicants err on the side of caution and contact any other potentially involved agencies at the earliest possible point in the permitting process.

**Please call the PIC at  
(415) 558-6377 with any  
questions regarding  
the Temporary  
Use Authorization  
application process.**

CASE NUMBER:  
For Staff Use only

# APPLICATION FOR Temporary Use Authorization

## 1. Owner/Applicant Information

PROPERTY OWNER'S NAME:	
PROPERTY OWNER'S ADDRESS:	TELEPHONE: (    )
	EMAIL:
APPLICANT'S NAME:	
	Same as Above <input type="checkbox"/>
APPLICANT'S ADDRESS:	TELEPHONE: (    )
	EMAIL:

## 2. Property Information

STREET ADDRESS:			
CROSS STREETS:		ASSESSOR'S BLOCK AND LOT /	
PRESENT, PREVIOUS, OR ONGOING USE OF PROPERTY:			
LOT AREA (SQ FT):	ZONING DISTRICT:	SPECIAL / RESTRICTED USE (SUB)DISTRICT(S):	HEIGHT / BULK DISTRICT:

## 3. Use Description

NAME OF TEMPORARY BUSINESS OR EVENT:			
DESCRIPTION OF TEMPORARY USE:			
NAME OF PRIMARY CONTACT / RESPONSIBLE PARTY DURING BUSINESS HOURS:		MOBILE TELEPHONE NUMBER:	
DURATION OF TEMPORARY USE / WINDOW OF AUTHORIZATION			
START DATE	END DATE	TOTAL NUMBER OF DAYS	<small>* Dates are inclusive (e.g. they are valid days of operation within the use's time limit); total number of days may not exceed maximum time limits identified in Section 4, below.</small>
FREQUENCY OF TEMPORARY USE WITHIN WINDOW OF AUTHORIZATION (E.G. EVERY DAY, WEEKLY, MONTHLY, ETC):			

#### 4. Temporary Use Category

Check the box for the temporary use category into which the proposed use would fall. Please note that this summary table in no way supersedes Planning Code Section 205 et. seq. which provides greater detail on allowable uses and conditions of operation. If the proposed use does not conform to one of the following categories it cannot be approved as a Temporary Use.

	USE TYPE	MAXIMUM TIME LIMIT	ZONING DISTRICT	CODE SECTION
<input type="checkbox"/>	A neighborhood festival sponsored by residents in the vicinity	60 days	all	205.1(a)
<input type="checkbox"/>	B neighborhood festival sponsored by property owners or businesses in the vicinity	60 days	NC, Mixed Use, PDR, C, M	205.1(a)
<input type="checkbox"/>	C booth for charitable, patriotic or welfare purposes	60 days	all	205.1(b)
<input type="checkbox"/>	D open air sale of seasonal decorations such as Christmas trees or Halloween pumpkins.	60 days	all	205.1(c)
<input type="checkbox"/>	E outdoor "intermittent activities" such as mobile food facilities (a.k.a. street food) or farmers markets	3 days/week or 6 twelve-hour days/week for 1 year	all except RH, RM, RED, RTO	205.4
<input type="checkbox"/>	F mobile food facilities located in P Districts larger than one acre	1 year, no hourly/daily limit	P	205.4(b)(3)
<input type="checkbox"/>	G rental or sales office incidental to a new residential development	1 year	all	205.2(b)
<input type="checkbox"/>	H automobile wrecking	2 years	M-1, M-2	205.2(c)
<input type="checkbox"/>	I structures and uses incidental to construction activities	2 years	all	205.2(a)
<input type="checkbox"/>	J celebration or exhibition sponsored by a residential or commercial occupant(s)	single 24-hour event per month for 1 year	PDR, C, M, NC, Mixed Use Districts	205.3(a) & (b)

#### 5. Christmas Tree Sales

Complete this Section **only** if you have checked box "D" in Section 4, above, and the proposed Temporary Use involves the sale of Christmas trees. Any approval of such a Temporary Use Authorization is contingent on the applicant stipulating to the following statement:

I do  / do not  (check only one) intend to sell to "regulated occupancies." A regulated occupancy is defined in Section 15.01 of the San Francisco Fire Code as any occupancy set forth in Subchapter 1, Chapter 1, Title 19 of the California Administrative Code, and shall include any building, structure, or tent, or portion thereof, used, designed, or intended for use as a retail store and any area accessible to the public in any hotel, apartment, or office building. For a more complete explanation, please consult the Bureau of Fire Prevention of the San Francisco Fire Department.

In accepting this Temporary Use Authorization, I certify that I am familiar with the laws, ordinances, and regulations of the City and County of San Francisco related to open air sales of Christmas trees and that the sale of Christmas trees on the premises identified on this application will be done in compliance with such laws, ordinances, and regulations. I further certify that I agree to comply with special procedures called for in Fire Department regulations.

I agree to indemnify the City and County of San Francisco, and its officers and employees, against and to hold the City and County of San Francisco, and its officers and employees, harmless from any and all loss of or damage to any property, and injury to or death of any person whomsoever, proximately caused in whole or in part by my failure to carry out the responsibilities provided under Article 15 of Part II, Chapter IV (Fire Code) of the San Francisco Municipal Code for the operation or maintenance of open air sale of Christmas trees or live Christmas trees, or by violation of any provision of said Article 15 related to the sale or distribution of such trees, or by negligence of myself or any of my agents or employees, or by any acts or omissions for which I or my agents or employees are liable without fault, in the exercise of rights pursuant to or operations under said permit, and I further agree to defend the City and County of San Francisco and its officers and employees against all claims, demands, and actions therefor.

CASE NUMBER:  
For Staff Use only

6. Intermittent Activities

Complete this Section **only** if you have checked box "E" or box "F" in Section 4 and the proposed Temporary Use would be considered an Intermittent Activity such as a mobile food facility. If you have checked box "E" in Section 4, all parts of this Section must be answered. If you have checked box "F" in Section 4, you need only complete parts "A" and "G."

Check only one box for each question. For the purposes of this Section, the activity's "vending space" is the entire area within a single rectangular perimeter that encompasses all carts, vehicles, tables, chairs, and other equipment associated with the activity which is the subject of this application. Because of the technical nature of portions of this Section, Planning Department Staff will be available to assist you in completing it at the time of submittal.

<b>A. The activity will be located:</b>	
<input type="checkbox"/>	within a building, in whole or part
<input type="checkbox"/>	entirely outside of a building
<b>B. Nothing associated with the activity will be physically located on the property for longer than:</b>	
<input type="checkbox"/>	3 calendar days each week
<input type="checkbox"/>	6 calendar days each week for a maximum of 12 hours per day
<b>C. Business hours will be limited to the hours of operation applicable to the property's Zoning District, which are:</b>	
<input type="checkbox"/>	6 a.m. to 11 p.m.
<input type="checkbox"/>	6 a.m. to midnight
<input type="checkbox"/>	6 a.m. to 2 a.m.
<input type="checkbox"/>	not limited
<b>D. The activity's vending space, as defined above, contains:</b>	
<input type="checkbox"/>	300 square feet or less
<input type="checkbox"/>	more than 300 square feet
<b>E. The activity's vending space, as defined above, is separated from the nearest RH, RM, RED, or RTO District by:</b>	
<input type="checkbox"/>	50 feet or less
<input type="checkbox"/>	more than 50 feet
<b>F. To the best of your knowledge, the premises identified on this application:</b>	
<input type="checkbox"/>	does not contain any other intermittent use
<input type="checkbox"/>	contains one or more additional intermittent uses

**G. In the space below, draw a site plan of the property which is the subject of this application. Please clearly indicate the size and location of the vending space in relation to all property lines, along with adjacent streets and any buildings or other notable features on the property. Include dimensions where appropriate. You may also attach drawings to this application in lieu of drawing them in this space. Please limit the size of your drawings to a maximum of 11" by 17".**

## 7. Food-Related Activities

While this Section only has relevance for certain types of Temporary Uses, **it must be completed by all applicants.** Any approval of a Temporary Use Authorization involving food-related activities is contingent on the applicant stipulating to the following statement:

I do  / do not  (*check only one*) intend to prepare, cook, store or sell food products. If the "I do" box has been checked, I acknowledge that I am required to obtain a permit from the Department of Public Health and potentially other City Agencies prior to commencing any operations. Additionally, I certify that I am familiar with the laws, ordinances, and regulations of the City and County of San Francisco and the California Retail Food Code (CalCode) that relate to the preparation, cooking, storage, safe handling, and sale of food. Any preparation, cooking, storage, handling, or sale of food on the premises identified on this Application will be done in compliance with such laws, ordinances, and regulations and with the CalCode.

## Applicant's Affidavit

Under penalty of perjury the following declarations are made:

1. I am the owner or authorized agent of the owner of this property.
2. The information presented on this application is true and correct to the best of my knowledge.
3. Additional information or applications may be required in order to render this application complete.
4. Should this application be approved and a Temporary Use Authorization be issued, I hereby affirm that I will abide by (1) any conditions imposed on the Temporary Use and (2) all portions of the Planning Code, including Section 205 et. seq., that apply to the Temporary Use. I understand that failure to do so shall be grounds for the immediate suspension or revocation of this Temporary Use Authorization.
5. If this application involves the sale of Christmas trees, I hereby affirm the stipulations set forth in Section 5 ("Christmas Tree Sales") of this application.
6. If this application involves the sale, storage, handling or preparation of food products, I hereby affirm the stipulations set forth in Section 7 ("Food-Related Activities") of this application.
7. Continuation of a Temporary Use beyond the authorized dates or failure to remove a structure associated with a Temporary Use within 10 days of the final authorized day of use shall constitute a violation of the Planning Code and may be subject to penalties of \$250 for each day that the property is in violation.

Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print name, and indicate whether owner or authorized agent:

<input type="checkbox"/>	Property Owner
<input type="checkbox"/>	Authorized Agent for Property Owner



CASE NUMBER:  
For Staff Use only

For Department Use Only

Fee amount: \_\_\_\_\_

Amount paid: \_\_\_\_\_

Date paid: \_\_\_\_\_

Receipt Number: \_\_\_\_\_

Check and complete:

Application received by Planning Department and held for further review.

By: \_\_\_\_\_ Date: \_\_\_\_\_

Application approved pursuant to Planning Code Section \_\_\_\_\_ for the period beginning on \_\_\_\_\_ and ending on \_\_\_\_\_, inclusive, and further limited within this period as described below:

<input type="checkbox"/>	no additional limit	
<input type="checkbox"/>	single 24-hour event per month	
<input type="checkbox"/>	3 calendar days each week	
	circle a maximum of 3 designated days:	M T W Th F Sa Su
<input type="checkbox"/>	6 calendar days each week for a maximum of 12 hours per day	
	circle a maximum of 6 designated days:	M T W Th F Sa Su
	list maximum daily hours:	

This approval is for the specific proposal described in this Application and is further subject to the restrictions contained in the aforementioned Code Section and elsewhere in the Planning Code.

Signature: \_\_\_\_\_ on behalf of the Zoning Administrator

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

**Important Information for Applicants and Proprietors**

- This document, along with the notations and signatures above, is your Temporary Use Authorization. No subsequent document will be issued by the Planning Department.
- It is incumbent on you to familiarize yourself with the conditions of this Authorization and with all applicable Code provisions and to abide by them at all times. Failure to do so shall be grounds for the immediate suspension or revocation of this Authorization.
- If the Authorization relates to a Mobile Food Facility, be reminded that you are authorized to operate only at the specific location identified in Part 6(G) and only for the days and/or hours identified above. The Mobile Food Facility cannot be on the property at any other time.
- This Temporary Use Authorization is a land-use and zoning approval only. It does not establish any right to conduct activities that require authorization from other City Departments such as the Entertainment Commission, Health, Police, etc.
- If you have any questions about this Authorization, contact the Planning Information Center at (415) 558-6377.