

## **ORDINANCE NO. 2022-xx**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO AMENDING CHAPTER 12.84.030 (TEMPORARY USE PERMITS) OF THE CITY OF SAN BRUNO MUNICIPAL CODE REMOVING REFERENCES TO CONSTRUCTION STAGING**

The City Council of the City of San Bruno **ORDAINS** as follows:

**SECTION 1.** Chapter 12.84.030 (Temporary uses) of Title 12 (Land Use), Article III (Zoning) of the San Bruno Municipal Code is hereby amended

#### **SECTION 2. FINDINGS.**

**WHEREAS**, there has been recent concern over the unsightly appearance of temporary construction staging areas across the City; and

**WHEREAS**, the Temporary Use Permit review process for construction staging areas requires review by the Planning Commission, increasing the time required for developers and for City Public Works projects to obtain approval; and

**WHEREAS**, comparable standards can be applied to construction staging area requests through the application of standard requirements; and

**WHEREAS**, a study of nearby jurisdictions has determined that most nearby cities have more standardized, streamlined approaches to the approval and regulation of construction staging areas; and,

**WHEREAS**, it is in the public interest for the City to establish consistent and detailed standards for construction sites and construction staging area fencing and screening to ensure the safety and general welfare, proper appearance, and the quality of the city's neighborhoods is preserved while ensuring that development projects may be staged efficiently and appropriately;

#### **SECTION 3. REGULATION**

San Bruno Municipal Code Chapter 12.80 (Definitions) is amended as shown in underline for additions and ~~strikethrough~~ for deletions, as follows:

##### **12.84.030 Temporary uses.**

A. Before a temporary use that is permitted by this section occurs, a temporary use permit shall be obtained.

B. The purpose of the temporary use permit is to allow the proper integration into the community of uses that may be appropriate only in specific locations in a zoning district, or appropriate only if such uses are established or arranged on the site in a particular manner.

C. The community development director (which refers to the director or his or her designee throughout this section) or planning commission may approve, deny, or conditionally approve an application for a temporary use permit as further specified in this section.

D. The community development director may grant temporary use permits for uses ~~(other than off-site construction staging areas)~~ lasting for a period of three months or less.

1. An application for a temporary use permit shall be made under this subsection D shall conform to the requirements specified in Sections 12.76.060 (Payment of fees required), 12.78.010 (Planning application completeness and close out due to inactivity), and 12.112.020 (Application and plans), and the application shall be made at least sixty days in advance of the intended commencement date of the temporary use.

2. Upon receipt of a complete application for a temporary use permit under this subsection D, the community development director shall approve, deny, or conditionally approve the application within one month.

3. At least ten days prior to approving a temporary use permit under this subsection D, the community development director shall ensure that written notice of the proposed temporary use is: (a) posted in at least three conspicuous places on utility poles on both sides of the property frontage and across the street from the subject property; and (b) is given through the United States mail, with postage prepaid to all persons (including businesses, corporations, or other public or private entities) owning real property within three hundred feet of the exterior boundaries of the property for which the application is being considered, and using addresses from the latest equalized assessment roll, or alternatively, from other records of the assessor or tax collector that, in the opinion of the secretary of the assessor or tax collector, contain more recent addresses. The notice shall specify the type and magnitude of the application to be considered, the place where copies of the application may be reviewed, the timing of approval, and a statement indicating the ability of any interested party to submit comments to the community development director.

4. The community development director shall grant a temporary use permit under this subsection D only if he or she makes the findings required by Section 12.112.050(B).

5. The applicant or any other interested party may appeal to the city manager any order, requirement, decision or determination of the community development director pursuant to this subsection D. Appeals shall be made in writing, accompanied by any required fee, and filed with the city clerk within ten days after the final action of the community development director. The appeal shall clearly state the facts of the case and the grounds for the appeal. Upon receipt of the appeal, the city clerk shall notify the city manager, or designee, who will render a decision within thirty days after the filing of the appeal.

6. The community development director may revoke a temporary use permit granted pursuant to the provisions of this subsection D if any of the conditions or terms of such approval are violated or if any law is violated in connection therewith. At least ten days prior to revoking a temporary use permit under this subsection D, the community development director shall ensure that written notice of the proposed revocation is given to the permittee, and is given through the United States mail, with postage prepaid to all persons (including businesses, corporations, or other public or private entities) owning real property adjacent to the property for which the revocation is being considered, and using addresses from the latest equalized assessment roll, or alternatively, from other records of the assessor or tax collector that, in the opinion of the secretary of the assessor or tax collector, contain more recent addresses. A permittee or other

interested party may appeal a revocation decision to the city manager, as provided in subsection (D)(5) of this section.

E. The planning commission may grant temporary use permits for ~~off-site construction staging areas of any duration less than or equal to one year~~ and for other temporary uses lasting longer than three months but less than or equal to one year.

1. An application for a temporary use permit under this subsection E shall conform to the requirements specified in Sections 12.76.060 (Payment of fees required), 12.78.010 (Planning application completeness and close out due to inactivity), and 12.112.020 (Application and plans), and the application shall be made at least sixty days in advance of the intended commencement date of the temporary use.

2. Upon receipt of a complete application for a temporary use permit under this subsection E, the community development director shall schedule a public hearing before the planning commission within thirty days of receipt of the complete application, and the planning commission shall reach a decision on the application within thirty days of the public hearing.

3. At least ten days prior to such hearing, the planning commission shall ensure that written notice of the proposed temporary use is posted in at least three conspicuous places on utility poles on both sides of the property frontage and across the street from the subject property. The posted notice shall specify the type and magnitude of the application to be considered, the place where copies of the application may be reviewed, the timing of approval, and a statement indicating the ability of any interested party to submit comments to the community development director. In addition, the planning commission shall ensure that at least ten days prior to such hearing, written notice of the proposed temporary use is given through the United States mail, with postage prepaid and using addresses from the latest equalized assessment roll, or alternatively, from other records of the assessor or tax collector that, in the opinion of the secretary of the assessor or tax collector, contain more recent addresses. This notice by mail shall be sent to all persons (including businesses, corporations, or other public or private entities) owning real property within three hundred feet of the exterior boundaries of the property for which the application is being considered.

4. The planning commission (or city council on appeal) shall grant a temporary use permit under this subsection E only if it makes the findings required by Section 12.112.050(B).

5. Appeals of decisions made under this subsection E shall proceed in accordance with the procedures specified in Section 12.78.060.

6. The planning commission may revoke a temporary use permit granted pursuant to the provisions of this subsection E if any of the conditions or terms of such approval are violated or if any law is violated in connection therewith. At least ten days prior to revoking a temporary use permit under this subsection E, the planning commission shall ensure that written notice of the proposed revocation is given to the permittee and is given through the United States mail, with postage prepaid to all persons (including businesses, corporations, or other public or private entities) owning real property adjacent to the exterior boundaries of the property for which the revocation is being considered, and using addresses from the latest equalized assessment roll, or alternatively, from other records of the assessor or tax collector that, in the opinion of the secretary of the assessor or tax collector, contain more recent addresses.

F. The community development director or planning commission may impose such conditions on temporary use permits as deemed necessary to secure the purposes of this section and to protect adjacent properties and the public interest. The director or commission may impose such requirements and conditions with respect to location, construction, maintenance, operation, site planning, traffic control and time limits. The director or commission may require tangible guarantees or evidence that such conditions are being, or will be, complied with.

G. The issuance of a permit under this section does not entitle a permittee or any other person to a temporary use permit beyond the period of time provided for in the temporary use permit, or to the issuance of another temporary use permit in the future, even at the same location or for the same use.

H. It is unlawful and a violation of the provisions of this section for any person to construct or modify any structure, or expand or alter any approved uses, except in strict conformance with any use permit issued.

**SECTION 4. NO MANDATORY DUTY OF CARE.** This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or parties within the city or outside of the city, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

**SECTION 5. CONSTITUTIONALITY; SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, invalid or ineffective by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

**SECTION 6. CEQA EXEMPTION.** The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) and 15378 (b)(5), that adoption of this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project that has the potential for causing a significant effect on the environment. The Council therefore directs that the Planning Division may file a Notice of Exemption with the San Mateo County Clerk.

**SECTION 7. EFFECTIVE DATE.** This Ordinance shall take effect thirty (30) days from and after the date of its adoption.

**SECTION 8. PUBLICATION.** The City Clerk is directed to cause publication of this Ordinance as required by law.

\_\_\_\_\_  
Rico E. Medina, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Thurman, MMC  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Marc Zafferano, City Attorney

--oOo--

I hereby certify that the foregoing Ordinance No. 2022-xx was introduced on February 22, 2022, and adopted at a regular meeting of the San Bruno City Council on March 8, 2022, by the following vote:

AYES: COUNCILMEMBERS:\_\_\_\_\_

NOES: COUNCILMEMBERS:\_\_\_\_\_

ABSENT: COUNCILMEMBERS:\_\_\_\_\_

\_\_\_\_\_  
Melissa Thurman, MMC  
City Clerk