

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ERIN MITCHELL, DANIELLE DIGIROLAMO, :
JOSH SMITH, DONALD MONTANO, :
ALEXANDER SUAREZ, TY HAILEY, :
RAY NEAL, JOSHUA HELTKE, :

Plaintiffs, :

V. :

CITY OF NEW HAVEN, JOHN DESTEFANO, :
DEAN ESSERMAN, COMMITTEE OF THE :
PROPRIETORS OF THE COMMON AND :
UNDIVIDED LANDS IN NEW HAVEN :

Defendants. :

Civil Action No.
3:12-CV-00370 (MRK)

March 26, 2012

**DEFENDANTS' SUPPLEMENTAL MEMORANDUM OF LAW IN
OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

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I. INTRODUCTION

The defendants, City of New Haven, John DeStefano, Dean Esserman (the “City”) and the Committee of the Proprietors of the Common and Undivided Lands in New Haven (the “Committee”), respectfully file this joint supplemental memorandum in further opposition to plaintiffs’ Motion for Preliminary Injunction.¹

The plaintiffs have taken up full-time residence on the New Haven Green and refuse to leave. They have erected tents, camp overnight, prepare and eat meals, take in and leave trash, destroy grass, damage trees, and create a wide variety of health and safety hazards. By way of the pending motion, plaintiffs attempt to continue this lawless conduct by invocation of the First Amendment. This case, however, has nothing to do with the plaintiffs’ political viewpoints or any political messages they wish to communicate; nor does it have anything to do with demonstrations in general, or the plaintiffs’ motives or beliefs in particular.

Rather, this case involves the City’s desire to prevent a small group of individuals from becoming indefinite, full-time residents on the Green, thereby monopolizing and destroying land that should be open and preserved for the use and enjoyment of the general public. Plaintiffs contend that the First Amendment confers upon them the right

¹ The Committee joins in this joint memorandum because its interests in the present proceeding are entirely consistent with those of the City. Pursuant to its own regulations, the Committee has expressly delegated to the City of New Haven and its officials the power and authority to issue permits for the use of the Green, and specified that permittees must “comply with such rules and regulations of the City of New Haven or any department thereof as may from time to time be in force and effect for the use of public parks generally.” (Regulations Governing the Use of the Green, hereinafter “Committee Regulations,” copy attached as Exhibit A to Defendants’ Response to Plaintiffs’ Motion for Temporary Restraining Order and Injunction). As discussed herein, the plaintiffs have failed to comply with duly-enacted regulations of the City that (i) apply generally to all parks in New Haven, as well as the Green, and (ii) constitute reasonable time, place and manner restrictions. Consequently, the issue of whether the City or the Committee holds title to the Green is irrelevant for determining plaintiffs’ claimed entitlement to an injunction based on an alleged violation of the First Amendment, which is the sole matter before the Court at this time.

to continuously and indefinitely live in tents on the Green because they have a message. This claim is entirely without merit and can be summarily rejected by this Court.

First, even if the Court assumes that all of the plaintiffs' activities are entitled to First Amendment protection, plaintiffs' claims have no merit and thus no likelihood of success. "The guarantees of the First Amendment have never meant 'that people who want to propagandize protests or views have a constitutional right to do so whenever and however and wherever they please.'" *Greer v. Spock*, 424 U.S. 828, 836 (1976) (quoting *Adderley v. State of Fla.*, 385 U.S. 39, 48 (1966)). Here, the City has duly enacted rules and regulations that govern the use of all parks, including the Green. (See New Haven Code of Ordinances, Title III, Chapter 19, hereinafter "City Regulations"). These City Regulations prohibit: (1) any type of organized event, gathering, or assembly without a permit, (2) erection of any type of temporary structure, (3) entering the Green before 6:00 a.m., (4) remaining on the Green after sunset in unlit areas and after 10:00 p.m. in lighted areas, (5) digging or otherwise disturbing the grass, (6) damaging trees or plants, and (7) taking in, depositing or leaving any type of trash. There can be no dispute that plaintiffs have violated each of these regulations, and likely more.

The City's Regulations authorize the police to arrest each person who violates any regulation. Additionally, park security officers are authorized to issue citations, and to ask the person to leave the park for violating any regulation. In this situation, rather than arrest or issue citations, the City wants the plaintiffs to cease their illegal conduct and leave the Green.

The City's action did not and does not violate the First Amendment because under *Clark v. Community for Creative Non-Violence*, 468 U.S. 288 (1984), the City's

Regulations are content-neutral, narrowly-tailored to further significant governmental interests, and leave open ample alternate avenues for communicating a message. In short, the City's Regulations are reasonable time, place and manner restrictions that easily meet all constitutional requirements. As such, plaintiffs cannot demonstrate a likelihood of success and their motion is properly denied.

Moreover, the plaintiffs' conduct of erecting tents and indefinitely living on the Green is not activity protected by the First Amendment in the first instance. The First Amendment protects only "speech" and conduct that is sufficiently expressive that it is "akin to speech." Conduct is entitled to protection only when a particularized message is intended, and there exists a substantial likelihood that the message would be understood by those who view it. Camping and sleeping overnight on the Green conveys no particularized message. That conduct could mean a host of things or nothing at all, and certainly without more, there is no likelihood that a "particularized message" would be understood by anyone viewing it. Without First Amendment protection, plaintiffs cannot demonstrate irreparable injury or a likelihood of success and their motion is properly denied.

II. LEGAL STANDARD

Injunctive relief is "an extraordinary remedy never awarded as of right." *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). Under some circumstances, such "extraordinary" relief may be awarded based only on showing a risk of irreparable harm and either (1) a likelihood of success on the merits or (2) the existence of sufficiently serious questions going to the merits of the case to make them a fair ground for litigation, and a balance of hardships tipping decidedly in plaintiffs favor. The Second Circuit,

however, has made clear that where, as here, the moving party seeks to stay governmental action taken in the public interest pursuant to a statutory or regulatory scheme, the injunction should be granted only if the moving party meets the more rigorous likelihood of success standard. *Forest City Daly Housing, Inc. v. Town of North Hempstead*, 175 F.3d 144, 149-50 (2d Cir. 1999); *Jolly v. Coughlin*, 76 F.3d 468, 473 (2d Cir. 1996); *Bery v. City of New York*, 97 F.3d 689, 694 (2d Cir. 1996). The Court has justified the more rigorous standard, as follows: “This exception reflects the idea that governmental policies implemented through legislation or regulations developed through presumptively reasoned democratic processes are entitled to a higher degree of deference and should not be enjoined lightly.” *Able v. U.S.*, 44 F.3d 128, 130 (2d Cir. 1995).

Here, the plaintiffs seek to stay the action of the City pursuant to a regulatory scheme, and therefore, they must meet the more rigorous standard: (1) irreparable harm, and (2) a likelihood of success on the merits. Plaintiffs have failed to establish either and indeed have failed to meet their burden for securing injunctive relief under any standard.

As noted by this Court, the Second Circuit does not presume irreparable harm in cases involving the First Amendment. *Doninger v. Niehoff*, 514 F.Supp.2d 199, 210 (D. Conn. 2007) (citing *Bronx Household of Faith v. Board of Educ. Of City of New York*, 331 F.3d 342, 349 (2d Cir. 2003)). Instead, where the governmental directive does not limit speech directly, the Second Circuit requires proof that the challenged governmental action has had or likely will have an actual chilling effect on speech. *Id.* Here, the Plaintiffs have not and cannot establish this essential element for securing injunctive relief and their motion should be denied.

III. PROPOSED FINDINGS OF FACT

1. In 1970, the National Park Service designated the New Haven Green as a National Historic Landmark District because of its beauty and historic character.

<http://tps.cr.nps.gov/nhl/detail.cfm?ResourceId=1022&ResourceType=District>

2. The Committee adopted in 1973 and later amended in 1984, certain Regulations Governing the Use of the Green. (Committee Regulations, Exhibit A to Defendants' Response to Plaintiffs' Motion for Temporary Restraining Order and Injunction).

3. The Committee Regulations require that a permit be obtained before any individual, group or organization may hold a meeting, rally, exhibit, demonstration, or any other event on the New Haven Green. (Committee Regulations, Paragraph (a)).

4. Pursuant to the Committee Regulations, the Committee has expressly delegated to the City of New Haven and its officials the power and authority to issue permits for the use of the Green, and specified that permittees must "comply with such rules and regulations of the City of New Haven or any department thereof as may from time to time be in force and effect for the use of public parks generally." (Committee Regulations, Paragraph (k)).

5. The City's rules and regulations for "public parks generally" are defined in Title III, Chapter 19 of the City's Code of Ordinances. (City Regulations, attached as Exhibit A hereto).

6. The City Regulations were adopted pursuant to the provisions of Article XXIII of the City Charter. (New Haven, Code of Ordinances, Title I, Charter, Article XXIII – Department of Parks and Recreation, attached as Exhibit B hereto).

7. Plaintiffs have violated the City's Regulations by:
 - a. Never applying for or obtaining a permit, (City Regulations, Sec. 19-5(b)(1); Robert Levine Declaration, Pars. 5, 6),
 - b. Erecting temporary structures, (City Regulations, Sec. 19-5(b)(5)(iii)),
 - c. Constructing solar power panels, rudimentary kitchens, and running gas-powered generators within temporary structures constructed of flammable materials, (City Regulations, Secs. 19-5(b)(5)(iii), 19-5(b)(11)),
 - d. Collecting and stockpiling a variety of flammable materials including tires and wood pallets within the temporary structures, (City Regulations, Sec. 19-5(b)(5)(iii), 19-5(b)(11)),
 - e. Remaining on the Green between 10:00 pm and 6:00 am, (City Regulations, Sec. 19-5(b)(16)(i), (iii)),
 - f. Destroying the grass and damaging trees, (City Regulations, Sec. 19-5(b)(5)(iv)),
 - g. Taking in, depositing and leaving all forms of trash, including tires, TVs, clothes, and other junk, (City Regulations, Sec. 19-5(b)(8)).

8. For any violation of the City's Regulations, the City is authorized to arrest, issue a citation and/or ask the person to leave the Green. (City Regulations, Sec. 19-12).

9. Plaintiffs have placed tents, canopies, tarps, furniture, tires, wood pallets and cubicle walls on the Green. (Rebecca Sweeney Declaration, Par. 4a, and Exhibits A-L thereto; Christy Haas Declaration, Pars. 8, 9, and Exhibits A-G thereto).

10. Plaintiffs have also allowed garbage, food and clothing to be strewn around the encampment. (Rebecca Sweeney Declaration, Par. 4b, and Exhibits A-L thereto).

11. Plaintiffs have tied rope and string to various trees around the encampment, thereby endangering those trees. (Rebecca Sweeney Declaration, Par. 4c,

and Exhibits A-L thereto; Christy Haas Declaration, Par. 9, 11, and Exhibits A-G thereto.).

12. City police and fire officials have observed fire hazards in the Occupy encampment, which the members of the Occupy Group have refused to remove. (Michael Grant Declaration, Pars. 5-8; Rebecca Sweeney Declaration, Par. 5).

13. The tents, tarps and other structures being used on the Green are not fire retardant, and thereby increase the risk that if a fire is started it would spread quickly. In addition, many tents are in close proximity and are under a tarp. City officials have also observed the use of generators and gasoline, and observed the collection of highly flammable material, including trash, tires and wood pallets, all posing serious fire hazards. (Michael Grant Declaration, Pars. 6-8; Rebecca Sweeney Declaration, Exhibits A-L).

14. On March 20, 2012, following the issuance of the temporary restraining order by Judge Hall (which by its plain terms “does not in any way intend to prohibit the City from enforcing any of its laws, particularly that go to public safety”), Lieutenant Rebecca Sweeney of the New Haven Police Department escorted the New Haven Fire Marshall to the Occupy New Haven encampment on the Green for the purpose of ordering them to remove the wood pallets because of the fire hazard they present. According to Lieutenant Sweeney, the occupiers “were very hostile and refused to remove the pallets.” (Rebecca Sweeney Declaration, Par. 5).

15. All the grass in the area of plaintiffs’ encampment has been destroyed, and the area is now dirt. (Christy Haas Declaration, Par. 10, and Exhibits A-G thereto; Rebecca Sweeney Declaration, Par. 11 and Exhibits A-L thereto).

16. Joshua Heltke, one of the named plaintiffs in this action, has attempted to obtain a City residence card listing “The Green” as the individual’s permanent residence. (Lisa Wilson Declaration, Par. 4).

17. During the time that the Occupy New Haven movement has been residing on the Green, reports of crimes on the Green have increased substantially, and the City has been obligated to expend significant funds to provide the extra police patrols required by the presence of the Occupiers. On March 13, 2012, a woman was allegedly sexually assaulted while sleeping at night in one of the tents on the Green. (Rebecca Sweeney Declaration, Pars. 9, 10; Charles Anyinam Declaration, Exhibit 1).

18. For the time period between October 15, 2009 and March 18, 2010, the City received a total of 25 calls for police service on the Green. One year later, during the same period, the number of calls was only 18. In contrast, during the occupancy (October 15, 2011 and March 18, 2012), the number of calls substantially increased to 52. Specifically, the number of reported calls for “Disorderly Conduct” rose from one call in each of the 2009-2010 and 2010-2011 periods to seven calls during the 2011-2012 period. In addition, the number of calls for reports of a “Drunk Person” also rose from one each during the first two periods, to nine during the time from October 15, 2011 through March 18, 2012. (Charles Anyinam Declaration, Exhibit 1).

19. The City’s Regulations apply to all individuals and groups without reference to any viewpoint. (City Regulations).

20. The City’s Regulations were adopted pursuant to the City Charter, for the purpose of making the Green safer and cleaner, and preserving its beauty and historic character. (City Regulations, Section 19-4; Christy Haas Declaration, Pars. 6, 7).

21. The City's Regulations also ensure the ability of the general public to enjoy the Green, by protecting it from overuse and unsanitary conditions and preventing it from being monopolized by a small group. (Christy Haas Declaration, Par. 6).

22. Plaintiffs have ample alternative avenues to convey their message, including rallies, marches, speeches, pamphlets, blogging, tweeting and facebooking. (See, e.g.: <http://www.facebook.com/occupynewhaven>; <http://twitter.com/#!/OccupyNewHaven>; <http://www.occupynewhaven.org/>.)

23. The City's Regulations allow the plaintiffs, just like any other group, to apply to the City for a permit to use the Green. (City Regulations, Sec. 19-5(b)(1)).

24. Before resorting to issuing a Notice that demanded the plaintiffs vacate their occupancy of the Green, the City engaged in good faith efforts to urge the plaintiffs to agree to voluntarily vacate their occupancy at a date certain. (City of New Haven, Proposal for Occupy New Haven, Exhibit C to Defendants' Response to Plaintiffs' Motion for Temporary Restraining Order and Injunction).

25. These efforts included meetings and other communications with plaintiffs. These communications made clear that the plaintiffs needed to remove structures and vacate full-time occupancy of the Green. These communications also made clear that plaintiffs – like all others – had the right to use the Green in the future in a manner consistent with City Regulations. (City of New Haven, Proposal for Occupy New Haven, Exhibit C to Defendants' Response to Plaintiffs' Motion for Temporary Restraining Order and Injunction).

26. In response, the plaintiffs refused to remove structures and vacate their permanent occupancy of the Green and instead filed the present action. ("Occupy New

Haven refuses to leave Green, makes demands of City,” www.nhregister.com, Saturday, March 10, 2012, Ex. D to Defendants’ Response to Plaintiffs’ Motion for Temporary Restraining Order and Injunction).

IV. LEGAL ARGUMENT

For purposes of this present motion, the defendants assume without conceding that the Green is a traditional public forum. Even in this type of forum, however, the City may place reasonable time, place, and manner restrictions on expressive activities as long as they (1) are content-neutral, (2) are narrowly-tailored to serve a significant government interest, and (3) leave open alternate avenues for communicating a message. *Clark*, 468 U.S. 288. The facts involved in the Supreme Court’s 1984 opinion in *Clark* are so essentially identical to this one that extended legal analysis is unnecessary. Like the Supreme Court in *Clark*, this Court may resolve this matter by assuming without deciding that plaintiffs’ conduct of erecting and sleeping in tents is protected speech. Nonetheless, the Court can also deny the plaintiffs’ motion on the basis that plaintiffs failed to establish that sleeping on, and living on, the Green constitute expressive activities protected by the First Amendment in any manner.

A. **Even if the Conduct is Protected, Plaintiffs have No Likelihood of Success because the City’s Regulations are Content-Neutral Reasonable Time, Place and Manner Restrictions that Survive Constitutional Scrutiny.**

The plaintiffs’ constitutional claims fail because controlling authority establishes that the City’s Regulations are valid time, place and manner restrictions. As noted, the Supreme Court has unequivocally held that even in a traditional public forum such as a City park, the City may impose reasonable time, place and manner restrictions on speech and expressive conduct so long as those restrictions are content neutral, narrowly tailored

to serve a substantial governmental interest, and leave open ample alternative channels for communication of the information. *See Clark*, 468 U.S. at 293; *see also, Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989).

The City's Regulations easily meet this constitutional standard.² In an even-handed manner, the City's Regulations prohibit private citizens from turning public property into their own personal living quarters. The City Regulations also seek to protect the legitimate and substantial governmental interests in maintaining public parks for the use and enjoyment of *all* citizens, and by safeguarding and protecting the natural resources of the parks. The complete lack of limits espoused by the plaintiffs would leave the City with a *de facto* campground in the middle of downtown with no ability to prevent people from remaining there indefinitely – a result that is emphatically *not* required by the First Amendment or controlling case law.

1. *The City's Parks, Recreation and Trees Ordinances are content neutral.*

The Supreme Court has explained the distinction between content-neutral and content-based restrictions, as follows:

The principal inquiry in determining content neutrality, in speech cases generally and in time, place, or manner cases in particular, is whether the government has adopted a regulation of speech because of disagreement with the message it conveys. The government's purpose is the controlling consideration. A regulation that serves purposes unrelated to the content of expression is deemed neutral, even if it has an incidental effect on some speakers or messages but not others.

² Plaintiffs' complaint also includes allegations directed to the Connecticut Constitution. However, the analysis and result is no different under the Connecticut Constitution. While the Connecticut Supreme Court has noted that some aspects of the Connecticut Constitution are broader than the United States Constitution, the Court nevertheless follows the same "reasonable time, place, and manner" analysis applied under the U.S. Constitution. *State v. Linares*, 232 Conn. 345, 387, n.17 (1995) ("government appropriately may enact reasonable restrictions of time, place and manner that are narrowly tailored to further significant governmental interests and that accord room for ample alternative channels of communication.")

Ward, 491 U.S. at 791 (internal citation omitted).

Here, there cannot be any legitimate dispute that the City Regulations at issue are content neutral. According to *Ward*, the City's purpose is controlling and that purpose is to protect and preserve its parks. The *Clark* Court declared:

[T]here is a substantial Government interest in conserving park property, an interest that is plainly served by, and requires for its implementation, measures such as the proscription of sleeping that are designed to limit the wear and tear on park properties. That interest is *unrelated* to suppression of expression.

Id. at 299 (emphasis added).

This conclusion has been reiterated throughout the country by the courts, who have overwhelmingly rejected claims by various "Occupy" groups that they are entitled to convert public property into their personal living quarters for an indefinite period of time. In *Freeman v. Morris*, 2011 WL 6139216 (D. Me., 2011), for example, the court denied plaintiffs' motion for preliminary injunction, finding that plaintiffs could not show likelihood of success on the merits. The court reasoned: "[T]he State's permit requirement, its closing-hours regulations, and its long-standing no-camping rule are reasonable time, place and manner restrictions which are narrowly tailored to further the significant government interests of public safety and of ensuring that the Park is adequately preserved and available for all comers." *Freeman*, 2011 WL 6139216 at *1.

The court concluded:

The Plaintiffs claim a First Amendment right to continuous occupation of a public park that has historically been the site of numerous political rallies and demonstrations. If the Plaintiffs' claim were ultimately vindicated, it would come at the expense of others who wish to use the Park to promulgate their own ideas.

...

Allowing the Plaintiffs to continue indefinitely to occupy the Park would ultimately tend to suppress, rather than promote, the free exchange of

ideas. As a traditional public forum, Capitol Park should be available to all comers to communicate their ideas, not just Occupy Augusta.

Id. at *12.

Likewise, in *Isbell v. City of Okla. City, Oklahoma*, 2011 WL 6152852 (W.D.Okla., 2011), the court denied plaintiffs' motion for preliminary injunction on the grounds that plaintiffs failed to establish a likelihood of success on merits because there, like here, the City's regulations were content-neutral, reasonable time, place and manner restrictions. The court further found that the plaintiffs have "ample alternative methods of communicating their message at times when the park is closed." *Isbell*, 2011 WL 6152852 at *8. As such, the court held:

Plaintiffs seek to strip the City of its right to and ability to enforce general municipal ordinances and regulations designed to preserve public property for use by the general public and to maintain aesthetically pleasing park areas. Under the circumstances, the Court finds that the balance of hardships between the parties supports the denial of Plaintiffs' request for a preliminary injunction that would prevent the City from enforcing these laws.

Id. at *9.

Numerous courts throughout the country have come to the same conclusion. *See Occupy Minneapolis v. County of Hennepin*, 2011 WL 5878359, *6 (D.Minn., 2011) (finding that a "post-occupation" resolution by county council that prohibited individuals from sleeping or collecting and storing personal items at the county government complex was content-neutral); *Occupy Fort Myers v. City of Fort Myers*, 2011 WL 5554034, *13-14 (M.D.Fla., 2011) (holding that an ordinance prohibiting any "unauthorized person" from "set[ting] up tents, shacks, or any other temporary shelters for the purpose of overnight camping" in city parks was immune from a facial First Amendment attack); *Davidovich v. City of San Diego*, 2011 WL 6013010, *4 (S.D.Cal., 2011) (denying

plaintiffs' application for temporary restraining order because an ordinance prohibiting any person to "erect, .. construct, .. or maintain ... any object on any public street, alley, sidewalk, highway, or other public property" was a "content neutral, reasonable time, place and manner restriction which is narrowly tailored to serve a significant governmental interest and leaves open ample alternative channels for communication."); *Waller v. City of New York*, 34 Misc.3d 371, 933 N.Y.S.2d 531, 545 (N.Y. Sup., 2011) (denying plaintiffs application for temporary restraining order where plaintiffs "have not demonstrated that they have a First Amendment right to remain in Zuccotti Park, along with their tents, structures, generators, and other installations to the exclusion of the owner's reasonable rights and duties to maintain Zuccotti Park, or to the rights to public access of others who might wish to use the space safely"); *Occupy Sacramento v. City of Sacramento*, 2011 WL 5374748, *7 (E.D.Cal., 2011) (denying plaintiffs' motion for temporary restraining order, finding plaintiffs could not show likelihood of success on the merits because the challenged municipal ordinance "appears to be a narrowly tailored and content-neutral time, place and manner restriction that applies to *anyone* who wishes to use the park during certain hours.) (emphasis in original); *Occupy Tucson v. City of Tucson*, 2011 WL 6747860 (D.Ariz., 2011) (same).

Similarly, in this matter, the City's Regulations are content-neutral. Like the regulations at issue in *Clark* and in the other Occupy cases, the City's Regulations prohibit all persons, regardless of the nature of their message and without reference to any viewpoint, from entering or using a City park between 10:00 p.m. and 6:00 a.m. (City Regulations, Sec. 19-5(b)(16)). Likewise, Sec. 19-5(b)(5) prohibits all persons from constructing or erecting any structures and from damaging, digging or otherwise

disturbing the grass and trees, while Sec. 19-5(b)(11) prohibits the use of fire except at certain parks. Sec. 19-5(b)(8) prohibits the taking in, depositing or leaving of all forms of trash and junk. The regulations are general rules that apply evenhandedly to all individuals and organizations, regardless of their viewpoint or message. Therefore, the City's Regulations are content neutral. *Ward*, 491 U.S. at 791; *Thomas v. Chicago Park Dist.*, 534 U.S. 316, 322 (2002).

2. *The City Regulations are also narrowly tailored to serve a substantial government interest.*

The prohibition on erecting tents and sleeping overnight on the Green is narrowly-tailored to serve numerous substantial government interests. The *Clark* Court was clear:

It is also apparent to us that the regulation narrowly focuses on the Government's substantial interest in maintaining the parks in the heart of our Capital in an attractive and intact condition, readily available to the millions of people who wish to see and enjoy them by their presence. To permit camping—using these areas as living accommodations—would be totally inimical to these purposes, as would be readily understood by those who have frequented the National Parks across the country and observed the unfortunate consequences of the activities of those who refuse to confine their camping to designated areas.

468 U.S. at 296.³

The Court further stated that the government has a substantial interest in “conserving park property, an interest that is plainly served by, and requires for its implementation, measures such as the proscription of sleeping that are designed to limit the wear and tear on park properties.” 468 U.S. at 299. “To demonstrate the significance of its interest, the City is not required to present detailed evidence . . . , but is entitled to

³ One need only glance at photographs depicting the state of the Green prior to the plaintiffs' encampment and those showing the state of the Green now to recognize that the concerns expressed by the Court (and the City in this case) are legitimate, and also to recognize that the plaintiffs' activities at the Green have caused the utter destruction of a formerly pristine public gathering place. *See*, Christy Haas Declaration, Exhibit H (pre-occupation Green) with Exhibits A-G (current state of the Green).

advance its interests by arguments based on appeals to common sense and logic.”

Coalition for the Abolition of Marijuana Prohibition v. City of Atlanta, 219 F.3d 1301, 1318 (11th Cir. 2000).

Importantly, the Supreme Court has reaffirmed in no uncertain terms what it means for a regulation to be “narrowly tailored.” Specifically, the Supreme Court stated in *Ward*, “[t]he requirement of narrow tailoring is satisfied so long as the regulation promotes a substantial government interest that would be achieved less effectively absent the regulation...” 491 U.S. at 799 (internal citations omitted); *accord, Hill v. Colorado*, 530 U.S. 703, 726 (2000) (“As we have emphasized on more than one occasion, when a content-neutral regulation does not entirely foreclose any means of communication, it may satisfy the tailoring requirement even though it is not the least restrictive or least intrusive means of serving the statutory goal.”) Moreover, it has never been the case that the party seeking to engage in speech activities is entitled to deliver his message in the *precise manner* he believes to be the most effective. *Heffron v. Int’l Society for Krishna Consciousness, Inc.*, 452 U.S. 640, 647 (1981).

Here, Sec. 19-5(b)(5), Sec. 19-5(b)(11), Sec. 19-5(b)(16) and the remaining provisions adopted by the City further the City’s substantial interest in making the parks of the City safer, cleaner, and a more pleasant place to visit for all families and individuals of the city. These regulations were adopted pursuant to the City’s Charter authority to maintain and control lands for parks and recreation purposes. The City’s Director of Parks and Recreation administers the provisions of Chapter 19 to ensure the adequate maintenance and efficient operation of the City’s parks, thereby directly serving the governmental interests they were adopted to promote.

Clark is directly on point and dispositive of the constitutional issues raised by the plaintiffs. As in *Clark*, allowing overnight camping for an indeterminate period of time would be inimical to the City's substantial interests in protecting public health, safety and welfare; protecting and maintaining the parks; and ensuring the availability of the parks to all members of the public. *Clark*, 468 U.S. at 296-299.

Moreover, in the present case, there are additional governmental interests, which are indeed substantial, that are furthered by the regulations at issue. For example, the City has a substantial interest in reducing the risk of unlawful acts, and minimizing crime. This concern is particularly heightened because plaintiffs are sleeping on the Green at night in the dark. In fact, on March 13, 2012, a woman was allegedly sexually assaulted while sleeping at night in one of the tents on the Green. Furthermore, since the plaintiffs' activities began, the incidence of reported criminal behavior has substantially increased on the Green. Therefore, enforcement of the City's Regulations will unquestionably further and promote the government's substantial interest in protecting the welfare of its citizens.

Second, the City has a substantial interest in limiting fire hazards and the risk of injury to persons caused by fire. Here, plaintiffs have created a substantial risk of fire and attendant injury or death. According to the Fire Chief, there are serious fire concerns on the Green because of the plaintiffs' configuration of tents, the use of non-retardant materials and the accumulation of materials such as tires and wood pallets. The plaintiffs are also using generators and gasoline, and cooking under tents with a make shift solar power source. The City has a substantial interest in minimizing these unacceptable fire hazards.

Third, the City has a substantial interest in preserving the Green and preventing damage to public property. Here, the grass has been absolutely destroyed; all that remains is dirt and gravel. In addition, the soil under trees has been compacted. This reduces the air space between soil particles and destroys the trees' roots. Plaintiffs have also damaged trees by tying ropes to them. This is particularly significant because the City of New Haven conducted the first public tree planting program in America, and that program produced a canopy of mature trees that gave rise to the nickname "The Elm City." Thus, preservation of the trees on the Green is a particularly important interest to the City and its citizens.

Fourth, the City has a substantial interest in ensuring the ability of the general public to enjoy the Green. Currently a portion of the Green is being monopolized and destroyed by a few. With at least 38 tents and other structures, the plaintiffs and others have taken for themselves to the detriment of all others the use and enjoyment of those areas. The City has a substantial governmental interest in bringing such monopolization and destruction to an end.

Fifth, the validity of the City's Regulations is judged not simply with reference to the plaintiffs' activities, but more generally by reference to the activities that would occur absent such ordinances. *See Clark*, 468 U.S. at 296-297. Given that, this Court must consider the impact to the City if the requested injunctive relief is granted. If the City were stripped of its ability to enforce its regulations, the plaintiffs would not be the only individuals demanding a need to erect structures and remain on the Green indefinitely. There would undoubtedly be more "occupiers." There would also undoubtedly be other groups who would demand the same right to use the Green in the same manner as the

plaintiffs for comparable or disparate reasons. The result would be a *de facto* campground (or worse) in the middle of downtown New Haven. This is not an illusory fear. Rather, the Supreme Court has expressly held that such potential consequences are an appropriate consideration when evaluating whether a time, place and manner restriction is narrowly tailored to a significant government interest. *See Clark*, 468 U.S. at 297.

Finally, despite these compelling and substantial governmental interests, plaintiffs' counsel argued during the temporary injunction hearing that even though plaintiffs never secured a permit, "no one has raised that issue until this morning" and that "for months this compound existed without anyone raising claims that there was a regulatory irregularity." (Transcript from TRO Hearing, p. 8). To the extent plaintiffs now suggest the City waived its right to enforce its regulations and/or is estopped from doing so, that decidedly cannot be the case as a matter of law. It is well settled that mere delay by the government in exercising its police powers does not constitute a waiver and does not give rise to a claim of estoppel.

For example, in *2284 Corp. v. Shiffrin*, 98 F.Supp.2d 244 (D.Conn. 2000), the plaintiff alleged that the state liquor control board reneged on a promise not to enforce regulations that prohibited topless dancing in businesses holding a liquor license. The plaintiff asserted claims for violation of the First Amendment and equitable estoppel. The Court rejected the plaintiffs' arguments, finding that a government agency cannot "reject" a regulation by agreeing not to enforce it. *Id.* at 245. The Court held: "The plaintiffs have not lost a legal right;" rather, "the plaintiffs' detriment here is the inability to retain a benefit that they never should have had in the first place." *Id.* at 249. Relying

upon a Supreme Court case, the Court reasoned that “when the Government is unable to enforce the law because the conduct of its agent has given rise to an estoppel, the interest of the citizenry as a whole in obedience to the rule of law is undermined.” *Id.* at 248.

Similarly, in *LaTrieste Restaurant & Cabaret, Inc. v. Village of Port Chester*, 40 F.3d 587 (2d Cir. 1994), the Second Circuit held that “principles of laches or estoppel do not bar a municipality from enforcing ordinances that have been allowed to lie fallow.” 40 F.3d at 590. In *LaTrieste*, the Court was dealing with an ordinance prohibiting the operation of a cabaret before 10 p.m. Finally, in *Clear Channel Outdoor, Inc. v. City of New York*, 594 F.3d 94 (2d Cir. 2010), the Second Circuit rejected an estoppel argument made against a municipality. The Court ruled:

[I]t is Plaintiffs who have erected signs and billboards in contravention of City zoning regulations. Essentially, Plaintiffs complain of a self-inflicted wound. They violated the City’s duly enacted zoning ordinance and seek to justify continued violation by citing a prior history of lax enforcement. Meager past efforts at zoning enforcement are not the stuff of economic expectations.

594 F.3d at 110-11.

As the Supreme Court has stated, “those who deal with the Government are expected to know the law and may not rely on the conduct of Government agents contrary to law.” *Heckler v. Community Services of Crawford County, Inc.*, 467 U.S. 51, 63 (1984).

For the foregoing reasons, the City’s Regulations governing the use of parks are narrowly tailored to further numerous substantial governmental interests and the City and its citizens cannot be stripped of their right to demand full compliance with those duly enacted regulations.

3. *The City's Regulations Leave Open Ample Alternative Means of Communication.*

Plaintiffs can offer no legitimate argument to contest the fact that the City's Regulations leave open ample alternative means of communication. Plaintiffs' own Complaint establishes that they have engaged in, and continue to engage in, a wide variety of alternative avenues of communication. These avenues include rallies, marches, signage, and demonstrations in public parks and other public spaces during the hours when those parks and other public spaces are open to the public. (Doc. #1, ¶¶ 13 and 15). For example, the plaintiffs have the right to apply for a permit to use the Green in the future under the City's Regulations. Moreover, plaintiffs have available to them, and appear to make extensive use of, other more modern methods of communication, such as social networking and internet communication. The plaintiffs "tweet," "blog" and host a Facebook webpage.⁴

The plaintiffs thus have adequate alternative channels of expression at their disposal, and do not need to engage in acts that violate the City's Regulations governing parks. Accordingly, the City's conduct is constitutionally permissible because, as in *Clark*, the City's Regulations do not pose any "barrier to delivering to the media, or to the public by other means, the intended message concerning the plight of the homeless." *See Clark*, 468 U.S. at 295.

B. Plaintiffs Have Failed to Establish that the Challenged City Regulations Regulate Protected Speech under the First Amendment.

Plaintiffs contend that they are engaged in expressive conduct that is protected under the First Amendment, and that the City is impermissibly attempting to regulate that

⁴ *See, e.g.*: <http://www.facebook.com/occupynewhaven>; <http://twitter.com/#!/OccupyNewHaven>; <http://www.occupynewhaven.org/>.

conduct by prohibiting camping and living in City parks after the parks are closed. But plaintiffs have failed to establish that their conduct in “occupying” City parks by camping and living in the parks after hours is in fact “speech” or “expressive conduct” that deserves constitutional protection.

Plaintiffs have the burden of establishing that their conduct is protected by the First Amendment. *Clark*, 468 U.S. at 293 n.5. To do so, they must demonstrate that (1) they have an intent to convey a particularized message with the conduct, and (2) there is a “substantial likelihood that the message will be understood by those who view it.” *Spence v. State of Washington*, 418 U.S. 405, 409-411 (1974). Here, even if one accepts that the plaintiffs have engaged in protected speech by erecting tents, displaying signs, engaging with the public, and chanting and marching, the physical act of camping and living indefinitely on public property is conduct that is separate and distinct from their “speech.”

While the protections provided by the First Amendment do not end at the spoken word, the Supreme Court has specifically rejected the notion that “an apparently limitless variety of conduct can be labeled ‘speech’ whenever the person engaging in the conduct intends thereby to express an idea[.]” *Texas v. Johnson*, 491 U.S. 397, 404 (1989) quoting *U.S. v. O’Brien*, 391 U.S. 367, 376 (1968); see also *City of Dallas v. Stanglin*, 490 U.S. 19, 25 (1989) (“It is possible to find some kernel of expression in almost every activity a person undertakes . . . but such a kernel is not sufficient to bring the activity within the protection of the First Amendment.”). Rather, conduct must be “sufficiently imbued with elements of communication” to be entitled to First Amendment protection. *Johnson*, 491 U.S. at 404.

Courts considering this issue have found symbolic speech to exist in limited circumstances such as burning the American flag (*Texas v. Johnson*, 491 U.S. 397, 404 (1989)); and wearing black arm bands in protest of the Vietnam War (*Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 514 (1969)). In contrast, courts have declined to find symbolic speech warranting First Amendment protection in conduct such as “begging and panhandling in the subway” (*Young v. N.Y. City Transit Auth.*, 903 F.2d 146, 153-54 (2d Cir. 1990)); “sitting or lying on public sidewalks in certain commercial areas between seven in the morning and nine in the evening” (*Roulette v. City of Seattle*, 97 F.3d 300 (9th Cir. 1996)), dressing so as to “express middle-school individuality” (*Blau v. Fort Thomas Public School District*, 401 F.3d 381 (6th Cir. 2005)), wearing a skirt, (*Zalewska v. County of Sullivan, New York*, 316 F.3d 314, 319-20 (2d Cir. 2003)), and wearing a mask (*Church of American Knights of the Ku Klux Klan v. Kerik*, 356 F.3d 197 (2d Cir. 2004)).

In this case, plaintiffs allege that their erection of tents serves as symbolic reminders of homelessness and despair among many Americans. (Doc. # 2, 12-00370.) Yet, plaintiffs admit that the tents are functional and protect them from the elements. *Id.* Moreover, plaintiffs do not even assert that sleeping overnight and making the Green their living quarters constitutes protected First Amendment activities. Plaintiffs’ activity of using the Green as living accommodations conveys no “particularized message.” Nor is there a “substantial likelihood” that a particularized message would be reasonably understood by those who view it. Plaintiffs’ conduct could simply mean that the plaintiffs enjoy camping, or that they are homeless and truly in need of housing, or it could mean absolutely nothing at all.

Sleeping outdoors in a public place is not in and of itself a fundamental right, and the “[t]he act of sleeping in a public place, absent expressive content, is not constitutionally-protected conduct.” *Whiting v. Town of Westerly*, 942 F.2d 18, 21 (1st Cir. 1991); *Joel v. City of Orlando*, 232 F.3d 1353, 1357 (11th Cir. 2000). Neither is there a recognized First Amendment right to erect a structure (such as a tent for sleeping) on public property. *See, Lubavitch Chabad House, Inc., v. City of Chicago*, 917 F.2d 341, 347 (7th Cir. 1990), holding that “[w]e are not cognizant of...any private constitutional right to erect a structure on public property. If there were, our traditional public forums, such as our public parks, would be cluttered with all manner of structures.”

Moreover, in the past, the Supreme Court has unanimously and summarily reinstated an injunction that prohibited Vietnam Veterans Against the War from camping on a public park. *See Morton v. Quaker Action Group*, 402 U.S. 926 (1971). Following this decision, other courts followed the Supreme Court’s decision and similarly concluded that erecting tents and camping in a public place was not protected speech. *See, e.g., Vietnam Veterans Against The War v. Morton*, 506 F.2d 53, 57 (1974) (“cooking and camping overnight ... are beyond the pale of First Amendment protection”); *We’ve Carried The Rich for 200 Years, Let’s Get Them Off Our Backs – July 4th Coalition v. City of Philadelphia*, 414 F.Supp. 611, 615 (E.D.Pa. 1976) (same).

Here, outside of attorney argument, there is no evidence that sleeping overnight on, or otherwise living on, the Green expresses any particularized message that reasonably would be understood by anyone who viewed it. Thus, this Court should conclude that sleeping and living on the Green is not an expressive act that is protected

by the First Amendment, and deny plaintiffs' motion for preliminary injunction accordingly.

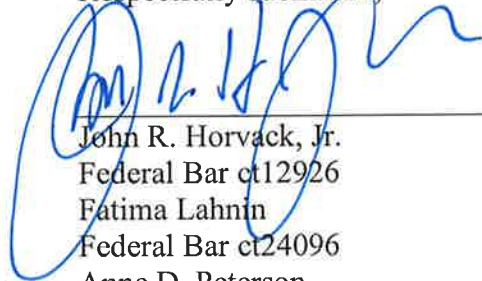
V. **CONCLUSION**

For these reasons, the plaintiffs' motion for preliminary injunction should be denied.⁵

⁵ In the event that the Court were somehow inclined to enjoin the City from enforcing its regulations, the City requests the opportunity to submit additional evidence regarding the appropriate amount of the bond to be posted by the plaintiffs, as required by F.R.Civ. P. 65(c).

THE DEFENDANTS,
CITY OF NEW HAVEN,
JOHN DESTEFANO,
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Respectfully submitted,



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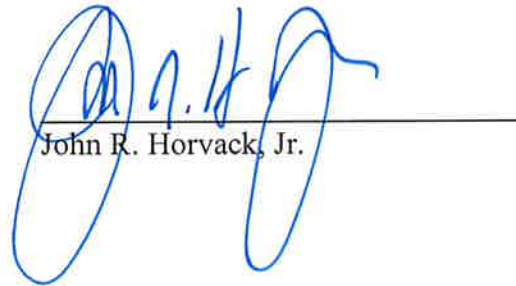
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DEFENDANT
THE COMMITTEE OF THE
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CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2012, a copy of the foregoing Defendant's Supplemental Memorandum of Law in Opposition to Plaintiffs' Motion for Preliminary Injunction was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.



John R. Horvack, Jr.

EXHIBIT A

New Haven, Connecticut, Code of Ordinances >> **TITLE III - CODE OF GENERAL ORDINANCES** >>
Chapter 19 - PARKS, RECREATION AND TREES >>

Chapter 19 - PARKS, RECREATION AND TREES ¹⁹¹

- Sec. 19-1. - Definitions.
- Sec. 19-2. - Parks department; created.
- Sec. 19-3. - Parks department; director.
- Sec. 19-4. - Parks department; board.
- Sec. 19-5. - Rules of conduct and prohibited acts.
- Sec. 19-6. - Picnics.
- Sec. 19-7. - Permit application; procedure and contents.
- Sec. 19-8. - Permit issuance.
- Sec. 19-9. - Insurance, bond or surety.
- Sec. 19-10. - Appeal procedure with respect to refusal of permits.
- Sec. 19-11. - Posting and notice.
- Sec. 19-12. - Enforcement.
- Sec. 19-13. - Lighthouse Point Park.
- Sec. 19-14. - Athletic fields.
- Sec. 19-15. - Tennis courts.
- Sec. 19-16. - Golf course.
- Sec. 19-17. - Golf course improvement revolving fund.
- Sec. 19-18. - Golf course enterprise fund.
- Sec. 19-19. - Edgerton Park.
- Sec. 19-20. - Ralph Walker Skating Rink at Blake Field.
- Sec. 19-21. - Athletic leagues.
- Sec. 19-22. - Swimming pools.
- Sec. 19-23. - Use of stages and auxiliary equipment.
- Sec. 19-24. - Fees for building use.
- Sec. 19-25. - Contractual relationships.

Sec. 19-1. - Definitions.

As used in this chapter, the following terms shall have the following meanings:

- (1) *Board* shall mean "board of park commissioners."
- (2) *Director* shall mean the director of the parks department or his/her designee(s).
- (3) *Parks department* shall mean the "department of parks, recreation and trees."

(Ord. of 5-3-82, § 1; Code of 1985, § 19-1; Ord. No. 1406, 3-6-06)

Sec. 19-2. - Parks department; created.

Pursuant to city charter section 113 as amended from time to time, there shall be a parks department in the City of New Haven. It shall consist of a director, a board of park commissioners and department employees.

(Ord. No. 1406, 3-6-06)

Sec. 19-3. - Parks department; director.

Pursuant to city charter section 117 as amended from time to time, the director shall have charge, control, management and use of all public parks, squares and open places included in the city's park system.

(Ord. No. 1406, 3-6-06)

Sec. 19-4. - Parks department; board.

Pursuant to city charter sections 114 and 115 as each is amended from time to time, the board shall consist of the mayor and eight (8) commissioners. It shall provide policy advice concerning the use, preservation and enjoyment of all city parks and recreation areas to the director and evaluate such policies.

(Ord. No. 1406, 3-6-06)

Sec. 19-5. - Rules of conduct and prohibited acts.

- (a) All parks and other facilities under the jurisdiction of the board of park commissioners and the parks department will be governed and controlled by the following rules of conduct, and by other rules and regulations set forth herein pertaining to specific parks or facilities.
- (b) Any person who violates, assists or encourages the violation of any of the following rules in any park, playground or other facility under the jurisdiction of the board of park commissioners, or the parks department, will be charged with an offense, and upon conviction, fined up to the maximum amount authorized by state statutes or this Code. Upon conviction, such person(s) shall also be responsible for the costs of injury to persons or property caused as a result of such violation:
 - (1) *Public gathering, permit requirement.* An organization, group, or individual requesting permission to hold or present an organized event, assembly, public speech, musical program, festival, or similar activity in any park area shall obtain a permit from the director or his/her designee(s) in accordance with this chapter. The permit requirement shall not apply to students attending school in New Haven, who are engaged in educational activities under the immediate direction and supervision of the proper school authorities, nor to informal picnics as defined in this chapter.
 - (2) *Commercial vendors, selling.* No individual or commercial entity shall operate any vending enterprise, nor offer for sale or sell any good(s) or service(s) unless such vendor is employed or retained by the parks department, or is licensed by the appropriate authorities and has obtained a permit from the director or his/her designee(s).
 - (3) *Domestic animals.* Domestic animals shall not be permitted to enter or go at large in any park, except for dogs held on a leash by their keepers.
 - (4) *Horses.* Horseback riding is not allowed in any park except on designated bridle trails. Horses shall be thoroughly broken and properly restrained, ridden with due care, and shall not be allowed to graze or go unattended.
 - (5) *Structures, plants, trees, earth, water.* No person shall:
 - (i) Mark, deface, disfigure, injure, tamper with, destroy, displace or remove any building, bridge, table, bench, fireplace, railing, pavement or paving

- material, water line or other public utility or part or appurtenance thereof, sign, notice or placard, monument, stake, post, boundary marker, or other structure, equipment, facility, park property or appurtenance.
- (ii) Dig or remove any soil, rock, sand, stone, tree, shrub, plant, wood or other material, or make any excavation by tool, equipment, blasting or other means or agency.
 - (iii) Construct or erect any building or structure for temporary use, or run or string any public service utility into, upon or across any park, except on special written permit from the director or his/her designee(s).
 - (iv) Damage, cut, carve, mark, transplant or remove any plant, injure the bark, pick a flower or seed of any tree or plant, dig or otherwise disturb grass in any area, or in any other way injure the natural elements of any park area.
 - (v) Climb any tree or wall; climb, stand or sit upon a monument, vase, planter, fountain, railing, fence, or upon any other property or structure not designated or customarily used for such purpose.
 - (vi) Attach any rope, cable or other contrivance to any tree, fence, railing, bridge, bench or other property or structure.
 - (vii) Throw, discharge, place or cause any substance, matter or thing to be placed in any body of water in or adjacent to any park, tributary, sewer or drain flowing into such water, which will or may result in the pollution of such waters.
- (6) *Wildlife.* No person shall hunt, molest, harm, frighten, kill, trap, pursue, chase, tease, shoot or throw missiles at any animal, wildlife, reptile or bird; nor remove or have in his/her possession the young of any wild animal, nor the egg, nest or young of any reptile or bird. However, any snake known to be deadly poisonous may be killed on sight.
- (7) *Disturbing conduct.* No one shall engage in breach of the peace or disorderly conduct as defined by Conn. General Statutes section 53a-182 as amended from time to time.
- (8) *Litter/dumping.* No person shall take in, dump, deposit, leave, place or cause any bottle, broken glass, ash, paper, box, can, dirt, rubbish, waste, garbage, refuse, or other trash to be placed on any park land, or in any waters in or contiguous to any park. Refuse and trash produced in any park shall be placed in proper receptacles where provided; where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.
- (9) *Ball playing.* Ball playing and other group games may be played in an undesignated open area, and only where such activity does not interfere with the general public's normal use of the park.
- (10) *Bathing.* No one shall bathe, swim or wade in any water or waterway in or adjacent to any park, except in such water and at such place and hour as the director or his/her designee(s) shall designate by a notice displayed for that purpose.
- (11) *Fires.* No one shall light, kindle, or use any fire except in connection with an approved picnic grill at Lighthouse Point Park, Fort Nathan Hale Park, Margaret Fisher Memorial and East Rock Park. Only self-contained fires in a fireproof vessel for cooking purposes will be permitted. Fires shall be totally extinguished, and ashes or coals disposed of in a proper receptacle upon termination of use.

- (12) *Firearms.* It shall be unlawful for any person to bring into or have in his/her possession in any park or recreation area:
 - (i) Any pistol, revolver or object(s) in which loaded or blank cartridges may be used, except for official starters at authorized track and field events.
 - (ii) Any burglar tool(s), implement(s) or similar equipment.
 - (iii) Any rifle, shotgun, air gun, spring gun, slingshot, bow or other weapon in which the propelling force is gunpowder, a spring or compressed air.
- (13) *Fireworks, explosives, missiles.* No one shall ignite, explode or throw any firework, firecracker, rocket, explosive or other missile without a license from the appropriate authorities and a permit from the director.
- (14) *Motor vehicles.* No one shall park any vehicle (except baby carriages) on any park drive or road, or drive at a speed in excess of twenty-five (25) miles per hour on any park drive or road. No one shall operate or park any such vehicle upon the turf, lawn, sidewalk and footpath, or any other park land, except in such place and at such time as may be designated by the director. No one shall wash, clean or repair any motor vehicle in any park.
- (15) *Boat launching.* No one shall launch, set forth in or place any boat or water borne conveyance in the water, in or adjacent to any park, except at the designated boat launch location at Lighthouse Point, unless a permit is first obtained from the director or his/her designee(s). This prohibition shall not apply to canoe launch sites.
- (16) *Opening and closing hours.* Except as hereinafter expressly permitted, no one shall enter or remain in any park, playground or other facility during the following times and under the following conditions:
 - (i) In any park, playground or other facility before 6:00 a.m. or after sunset.
 - (ii) Access roads to East Rock Park including Summit Drive (i.e. Hillhouse Drive), Trowbridge Drive and English Drive are open all the time except when the director or his/her designee determines that public safety is threatened.
 - (iii) After 10:00 p.m. in lighted areas.
 - (iv) By permit, exceptions to the above hours may be allowed in accordance with procedures established by the parks department.
 - (v) The director may declare any section or part of any park to be closed to the public at any time and for any interval of time for maintenance of the facility, or if the park has been properly reserved by a group.
- (17) *Public fountains.* The following activities shall not be allowed in a public fountain:
 - (i) Wading, swimming, running in or otherwise entering a public fountain;
 - (ii) Throwing any foreign objects or materials into a public fountain;
 - (iii) Committing any activity which causes damage to a public fountain or contaminating the water in a public fountain.
- (18) A public fountain shall not be used in a special event unless a permit from the director is obtained.

(Ord. of 5-3-82, § 1; Code of 1985, § 19-2; Ord. of 5-2-88; Ord. No. 1333, 10-20-03; Ord. No. 1406, 3-6-06)

Sec. 19-6. - Picnics.

- (a)

The parks department does not require a permit for informal picnics in any of its parks. There is a permit fee as authorized, established and amended from time to time by the board of aldermen, and listed in this Code for organized group picnics. An organized group picnic is any gathering of a group of individuals with a unified purpose or membership, which will exclude the public at large from the area to be covered by a permit.

- (b) Picnic permits are issued on the condition that the applicant will not sell, distribute or otherwise make available intoxicating liquors in connection with the use of such permit. This stipulation does not apply to beer and wine at Lighthouse Point Park.

(Ord. of 5-3-82, § 1; Code of 1985, § 19-11; Ord. of 5-5-86, § 1; Ord. No. 1345, 2-2-04; Ord. No. 1406, 3-6-06)

Sec. 19-7. - Permit application; procedure and contents.

- (a) Applications for a park/recreational facility permit shall be filed with the director at the parks department office at least twenty-one (21) days prior to the date applied for.
- (b) The application shall state:
- (1) The type of activity and name of the person or organization proposing such activity;
 - (2) Whether the activity is proposed on behalf of or by an organization, and if so, the name, address and telephone number of the headquarters of the organization, and of the authorized agent of such organization;
 - (3) The name, address and telephone number of the chairperson or director of the proposed activity who agrees to be responsible for its conduct;
 - (4) The name, address and telephone number of the person or organization to whom the permit is to be issued;
 - (5) The date when such activity is to be conducted;
 - (6) The park, recreational facility or portion thereof for which the permit is desired;
 - (7) An estimate of the anticipated attendance;
 - (8) The hours when the activity will start and terminate;
 - (9) Whether the activity is to be held by, on behalf of, or for any person other than the applicant. If so, the applicant for such permit shall file a written communication from the organizer authorizing the applicant to apply for the permit on his/her behalf. Such authorization is to be filed with the director; and
 - (10) In the event the permit involves Lighthouse Point Park, Fort Nathan Hale Park, East Rock Park or Margaret Fisher Memorial, whether permission to build a fire is requested.

(Ord. of 5-3-82, § 1; Code of 1985, § 19-13; Ord. No. 1406, 3-6-06)

Sec. 19-8. - Permit issuance.

In order to ensure the public's fair and full use of the city parks, to promote general public enjoyment of the parks through coordinated scheduling of activities, and to promote health, safety, welfare and recreation: The director, with the concurrence of the city's chief of police, and in appropriate cases, the director of the department of public works, director of traffic and parking, fire marshal, and building and electrical inspectors of the city, may issue permits upon the payment of a fee as authorized, established and amended by the board of aldermen from time to time, and as listed in this Code, for the use of any city park or recreational facility by any person or entity unless the director finds:

- (1) The facilities desired have been reserved for other use at the day and hour requested in the application. In such case, an alternative site will be offered if available;
- (2) The activity is to be held for the sole purpose of advertising products or goods, and/or is designed to be held purely for commercial profit; or
- (3) The proposed attendance, duration and usage of sound amplification equipment, either alone or in combination, would constitute a disturbance of the surrounding neighborhood. If the applicant's request is denied, the director shall use his/her best efforts to offer an alternative location acceptable to the applicant.

(Ord. of 5-3-82, § 1; Ord. of 5-5-86, § 2; Code of 1985, § 19-14; Ord. of 6-6-88, § 8; Ord. of 5-29-90; Ord. No. 1406, 3-6-06)

Sec. 19-9. - Insurance, bond or surety.

- (a) Before any permit is issued, the director shall determine if the event is liable to result in liability of any kind to the city. This includes, but is not limited to, damage to city property, or extraordinary costs to return the facilities to their condition prior to the event for which the permit is requested.
- (b) The director may require an indemnity bond or other form of security to protect the city from such liability, damage or costs, which the city may incur in connection with such event.
- (c) If the director determines that financial considerations render the applicant unable to provide the above-mentioned indemnity bond or other security, the director may waive the requirement.

(Ord. of 5-3-82, § 1; Code of 1985, § 19-15; Ord. No. 1406, 3-6-06)

Sec. 19-10. - Appeal procedure with respect to refusal of permits.

The director shall grant the permit, or inform an applicant in writing of his/her reasons for denying it within seven (7) days after the application's receipt. Any aggrieved applicant shall have the right to appeal such denial in writing to the board of park commissioners within ten (10) days. The board shall consider the application at its next regular or special meeting, and either sustain, overrule or modify the director's decision, and any special conditions imposed by him/her. The board president shall provide advance written notice to the city clerk within twenty-four (24) hours of any special board meeting.

(Ord. of 5-3-82, § 1; Code of 1985, § 19-16; Ord. No. 1406, 3-6-06)

Sec. 19-11. - Posting and notice.

- (a) The director shall post sections of these rules and regulations in each park, playground and other facility under the jurisdiction of the parks department.
- (b) The director shall furnish the chief of police with a complete list of parks, playgrounds and other facilities under his/her jurisdiction including their rules and hours of operation, and shall update such list as needed. The director shall file such list with the city clerk.

(Ord. of 5-3-82, § 1; Code of 1985, § 19-17; Ord. No. 1406, 3-6-06)

Sec. 19-12. - Enforcement.

- (a)

The police are authorized to arrest any person for any violation of these rules and regulations.

- (b) Park security officers have the authority to issue a citation for the violation of any rule or regulation as set by the director. Such officers have the authority to ask any person in violation of such rule or regulation to leave the park, playground or other facility under the jurisdiction of the parks department.

(Ord. of 5-3-82, § 1; Code of 1985, § 19-18; Ord. No. 1406, 3-6-06)

Sec. 19-13. - Lighthouse Point Park.

- (a) *Hours of Operation:*

Park hours:

In season: (the Friday preceding Memorial Day through Labor Day and any other times to be opened at the discretion of the director of parks, recreation and trees), 6:00 a.m. to 9:00 p.m.

Off-season: (all other times), 6:00 a.m. to sunset.

Boat launch hours:

Boat launching is restricted to the hours posted by the director, and filed in the city clerk's office. If such hours are inconsistent with state rules and regulations, the state rules and regulations shall prevail.

- (b) *Fees:* During the season, fees shall be paid in accordance with those which are authorized, established and amended from time to time by the city's board of aldermen, and listed in this Code. These include fees for parking, picnic shelter reservations, use of facilities, and use of the carousel and building.
 - (1) New Haven residents may obtain a free seasonal parking sticker issued by the director. The sticker shall be affixed to the driver's side of the front windshield of the vehicle. A sticker so affixed shall be valid at, and during the hours of operation of, Lighthouse Point Park from the issuance date through the last day of the season for which the sticker has been issued.
 - (2) Buses shall not be allowed in Lighthouse Point Park on Saturdays, Sundays or holidays, except for regularly scheduled Lighthouse line buses operated by the Connecticut Department of Transportation which enter the park as part of the normal operation.
- (c) *Free facilities:* The following facilities at Lighthouse Point Park will be available free of charge:
 - (1) Bathing beach with lifeguards on duty, as noted in this section;
 - (2) Picnic tables, as available;
 - (3) Picnic grills, as available;
 - (4) Playground equipment and designated play areas; and
 - (5) Boat launching ramp.
- (d) *Free admissions:* Groups of children participating in organized playground and day camp programs operated by the City of New Haven, who are accompanied by adequate adult supervision to the satisfaction of the director or his/her designee(s), shall be admitted free to use the park area and its facilities upon display of a permit issued by director or his/her designee(s) under this chapter.
- (e)

Additional rules of conduct: Besides the rules set forth in this chapter pertaining to general rules of conduct and prohibited acts, the following rules of conduct are applicable to Lighthouse Point Park, and are subject to the same penalties for violation:

- (1) Bathing and swimming shall be confined to the beach on the south side of the park, or to such other specific areas as designated by the director.
 - (2) Bathing and swimming in the waters off the west side, or harbor side, are expressly prohibited.
 - (3) Sleeping or loitering in the bathhouse is expressly prohibited.
 - (4) Ball playing and other activity that interferes with the comfort of the persons using the bathing beach are expressly prohibited.
 - (5) Bringing controlled or dangerous substances and alcoholic beverages to the park; and/or drinking or using the same in the park at any time. This provision shall not apply to permitted events within the Carousel building with a New Haven police officer on duty. Being under the influence of intoxicating liquor or a controlled or dangerous substance in the park is expressly prohibited.
 - (6) Soliciting contributions in the park for any purpose is expressly prohibited.
 - (7) Playing any game of chance, or being in possession of any gambling instrument or device in the park is expressly prohibited.
 - (8) Camping or staying overnight anywhere in the park without the director's consent is expressly prohibited.
 - (9) Failing to produce and exhibit a permit upon request of any authorized person desiring to inspect the same is expressly prohibited.
 - (10) Disturbing or interfering unreasonably with any person or party occupying any area of the park is expressly prohibited.
 - (11) Commercial vendors, other than those operating concessions owned by the city, are expressly prohibited in the park.
- (f) *Carousel hours and rental fees:*
- (1) The carousel shall be in regular operation from Memorial Day through Labor Day. The director will determine the hours of operation at the start of the season.
 - (2) The director shall have the authority to open or close the carousel to the public at any time, and/or for any interval of time, either temporarily or at regular or stated intervals (in and out of season), for the maintenance of the facility, or if the carousel has been properly reserved by a group, or if weather conditions prohibit or do not allow the safe and comfortable operation of the carousel.
 - (3) A membership card obtained from the Friends of the Lighthouse Park Carousel, Inc. shall be recognized as an in-season pass to the carousel, and shall be honored upon presentation to the ride operator for a ride by the individual member only bearing said card. Said membership card shall not be transferable.
 - (4) The parks department will assume all costs associated with operation of the carousel for special parks department sponsored events. All other city agencies or departments requesting use of the carousel and carousel building for special events must agree to assume all costs, including overtime costs, incurred in the use and operation of the carousel.
 - (5) All children forty-two (42) inches in height or less must be accompanied by an adult who shall ride free of charge.
 - (6)

- The carousel and carousel building may be rented by individuals, groups or organizations in accordance with the fee as authorized, established and amended from time to time by the board of aldermen, and listed in this Code.
- (7) The rental charge for the use of the carousel building by persons or groups other than city agencies or departments shall include the following:
- (i) Adequate accident and liability insurance as determined by the director, which must be secured and supplied as proof of such insurance before the use of the carousel and carousel building.
 - (ii) Adequate measures for security of the facility and participants in the event as required by the director.
- (8) The Friends of the Lighthouse Park Carousel, Inc., a 501-(C)(3) nonprofit organization formed for the sole purpose of restoring and supporting the continued operation of the Lighthouse Point Park Carousel, shall be granted special privileges with regard to the rental charges for the carousel and carousel building as follows:
- (i) The Friends of the Lighthouse Park Carousel, Inc., shall be allowed up to three (3) days for special fund raising events. The days are to be determined mutually between the Friends of the Lighthouse Park Carousel, Inc., and the director. All proceeds from these events shall be deposited in the carousel endowment and restoration fund. The parks department shall assume all costs of operating the carousel for such events.
 - (ii) The Friends of the Lighthouse Park Carousel, Inc. are prohibited from assigning the rights and privileges described in subsection (8)(i), above, to any other individual, group or organization.
- (9) Lighthouse Park Carousel Event Fund established.
- (i) A fund entitled the Lighthouse Park Carousel Event Fund ("the fund") is established to account for revenues and expenses associated with usage of the Lighthouse Point Park Carousel Pavilion ("the facility") for special events.
 - (ii) The mayor shall submit the annual fund budget as a component of the annual city budget submission required by this Code. The fund's budget shall become effective upon approval by order of the board of aldermen. This budget shall include estimates of the accrued unexpended balance, which may be available from prior years' operations, revenues which may be earned from fees imposed on rentals of the carousel and the facility, and expenditures which may be incurred during the fiscal year for which said budget is proposed. The director of the parks department may adjust expenses to meet actual conditions at the facility, provided that expenditures incurred may not exceed the sum of revenues earned during the fiscal year plus unexpended balances available from prior years' operations. Overtime expenses incurred in the general fund, which are associated with the use of the facility for special events, shall be allocated at least quarterly to the fund. Any unexpended balance in the fund at the end of the fiscal year shall remain in it, and be carried forward as allowed by Conn. General Statutes section 7-148(2)(K).
 - (iii) An annual report on the fund shall be provided pursuant to this Code.
 - (iv)

Sums appropriated by the board of aldermen for operation, maintenance or capital repairs of the facility may be used to supplement expenditures from the fund. The board must appropriate the sums before they are added to it.

(Ord. of 5-3-82, § 1; Ord. of 4-15-85, § 6; Code of 1985, § 19-3; Ord. of 5-16-85; Ord. of 6-6-88, § 4a; Ord. of 5-17-93; Ord. of 8-7-95; Ord. of 5-19-97; Ord. of 5-24-99; Ord. No. 1263, 5-1-00; Ord. No. 1289, 8-5-01; Ord. No. 1345, 2-2-04; Ord. No. 1406, 3-6-06; Ord. No. 1577, 12-15-08; Ord. No. 1639, 9-7-10)

Sec. 19-14. - Athletic fields.

- (a) Areas under the jurisdiction of the parks department are available for athletic events including, but not limited to, softball, baseball, soccer and football. Playgrounds/athletic fields are to be governed by rules including, but not limited to, the following:
 - (1) Collection of money for attendance at athletic events on park property is expressly prohibited unless a permit is obtained from the director.
 - (2) Betting, playing for stakes, or other gambling on any sporting event are expressly prohibited.
 - (3) Care must be taken that property is not injured or destroyed.
- (b) The parks department has the authority to issue permits for the scheduled use of playground areas/athletic fields. Those areas not reserved by permits may be used without charge by any resident who follows the regulations governing their use.
- (c) Violation of rules issued by the director or his/her designee may result in penalties.
- (d) Fees for entry, use of a practice field, use of lights and tournament fees shall be those authorized, established and amended from time to time by the board of aldermen, and are listed in this Code.

(Ord. of 5-3-82, § 1; Code of 1985, § 19-4; Ord. of 5-29-90; Ord. of 5-24-99; Ord. No. 1354, 5-3-04; Ord. No. 1406, 3-6-06)

Sec. 19-15. - Tennis courts.

Tennis courts under the jurisdiction of the parks department shall be governed by the following rules:

- (1) *Hours of play.* Unless otherwise posted, the hours of play at all tennis courts shall be as follows:
 - Unlighted hard surface courts—6:00 a.m. to sunset.
 - Other unlighted courts—9:00 a.m. to sunset.
 - Lighted courts—9:00 a.m. to 10:00 p.m.
- (2) *Rules of conduct.* In addition to the rules of conduct set forth in this chapter, the following rules shall apply to tennis courts. The penalty for violation of these additional rules shall be forfeiture of the use of the tennis courts at the time of the violation:
 - (i) All players must wear rubber-soled tennis shoes or other footwear nondestructive to the tennis court surface.
 - (ii) Care must be taken that the tennis court surface is not injured beyond ordinary wear and tear.
 - (iii) Court time is one (1) hour. At the end of the hour, if players are waiting for the courts, those who have just played must give way to them.

(Ord. of 5-3-82, § 1; Code of 1985, § 19-5; Ord. of 5-29-90; Ord. of 5-24-99; Ord. No. 1406, 3-6-06)

Sec. 19-16. - Golf course.

The operation of the Alling Memorial Golf Course shall be governed by the following rules:

- (1) *Season and hours of play:* Opening date shall be on or before April 1 of each year, weather permitting; closing date shall be on or after November 30 of each year, weather permitting; the course shall be open at dawn or 6:00 a.m., whichever is earlier, and close at dusk or 7:00 p.m., whichever is later. Both closing time and opening time are weather permitting.
- (2) *Fees:* The following fee schedule shall be in full force and effect, and fees shall be automatically adjusted to the new fee schedule on January 1 of each year:

Class		2008	2009	2010	2011	2012	2013	2014
Resident								
Weekday	9 Holes Senior	\$9	\$11	\$11	\$11	\$11	\$13	\$13
Weekday	9 Holes	12	14	14	14	14	16	16
Weekday	18 Hole Senior	12	15	15	15	15	17	17
Weekday	18 Holes	18	21	21	21	21	24	24
Weekday	Season Pass	2	4	4	4	4	6	6
Weekend	9 Holes	16	18	18	18	18	20	20
Weekend	18 Holes Senior	16	19	19	19	19	21	21
Weekend	18 Holes	20	23	23	23	23	26	26
Weekend	Season Pass	4	6	6	6	6	8	8
Nonresident								
Weekday	9 Holes Senior	14	15	15	15	15	17	17
Weekday	9 Holes	17	18	18	18	18	21	21
Weekday	18 Holes Senior	20	22	22	22	22	24	24
Weekday	18 Holes	25	27	27	27	27	30	30
Weekday	Season Pass	4	5	5	5	5	8	8
Weekend	9 Holes	18	19	19	19	19	20	20
Weekend	18 Holes Senior	25	27	27	27	27	28	28
Weekend	18 Holes	30	32	32	32	32	34	34
Weekend	Season Pass	8	8	8	8	8	10	10
Season Passes								
	Resident	600	600	600	600	600	600	600
	Resident Family	900	900	900	900	900	900	900
	Resident Senior	375	400	400	400	400	400	400
	Resident Junior	175	200	200	200	200	200	200
	Resident 1-Parent Family	800	800	800	800	800	800	800
	Nonresident	800	800	800	800	800	800	800
	Nonresident Family	1,200	1,200	1,200	1,200	1,200	1,200	1,200
	Nonresident Senior	650	650	650	650	650	650	650
	Nonresident Junior	400	400	400	400	400	400	400
Cart Rental								
	Senior 9 Holes	13	16	16	16	16	17	17
	9 Holes	15	16	16	16	16	17	17
	Senior 18 Holes	22	28	28	28	28	30	30
	18 Holes	26	28	28	28	28	30	30
	Half cart, 18 holes				14	14	15	15
	Half cart, 9 holes				8	8	9	9
Other								
	Twilight rate (after 5:30 p.m.)	12	12	12	12	12	13	13

Tournament (Weekday, 18 Hole Resident/Nonresident)	40	43	43	43	43	47	47
9 hole green fee & golf cart after 12 p.m. weekend/holiday				21	21	21	21
18 hole green fee & golf cart after 12 p.m. weekend/holiday				32	32	32	32
League (9-Hole Resident/Nonresident)	15	17	17	17	17	19	19

Nine (9) hole rates for weekend/holiday use of the golf course shall only apply for start times before 7:30 a.m. and after 1:00 p.m.

Nonresident season passes of any type may be sold only to those persons for whom a 1998 nonresident season pass was sold, and who have continued to renew the pass on a year to year basis.

At the discretion of the director of parks, recreation and trees promotional discounts may be offered to increase play and/or revenue throughout the season. Such promotions shall be for a period not to exceed sixty (60) days.

- (3) *Golf cart fees in tournaments:* Tournament fees include half the cost of a golf cart with two (2) golfers sharing a cart.
- (4) *Holidays:* Weekend rates shall apply on all legal holidays during the golf season.
- (5) *Locker fees (seasonal rental only):*
 Resident\$50.00
 Resident senior25.00
 Nonresident60.00
 Locker key deposit10.00
- (6) *Definitions:* The following definitions shall apply in determining golf course fees:
 - (i) *Junior* is defined as any individual who is seventeen (17) years of age or younger.
 - (ii) *Resident* is defined as any individual who lives in either the City of New Haven or the Town of East Haven. Any member of the U.S. Armed Forces on active duty and stationed in either the City of New Haven or the Town of East Haven, as certified by his/her commanding officer, and dependents of and residing with such member, shall be eligible for resident green fees and resident season membership fees.
 - (iii) *Senior* is defined as any individual who is sixty-five (65) years of age or older.
- (7) *Rules of conduct.* In addition to the rules of conduct set forth in section 19-5, the following rules shall apply to the golf course. The penalty for violation of these additional rules shall be forfeiture of the use of the course at the time of the violation:
 - (i) The rules of the United States Golf Association will govern the use of the golf course.
 - (ii) Children under fourteen (14) years of age are not permitted to play unless accompanied by an adult who is also playing.
- (8) *Club tournaments:* The New Haven Golf Club and the Knickerbockers Golf Club will be allowed two (2) tournaments each per year, which may be held on a weekend. The fees for such tournaments will be as follows:

18 holes\$26.00

The director may waive all fees for participation in the Annual United States Gold Association Amateur Qualifying Tournament.

(Ord. of 5-3-82, § 1; Ord. of 4-4-83; Ord. of 4-15-85, § 6; Code of 1985, § 19-7; Ord. of 8-4-86; Ord. of 9-19-88, § 1; Ord. of 12-4-89; Ord. of 3-18-91; Ord. of 10-21-96; Ord. of 5-5-97; Ord. of 8-3-98, §§ A—C; Ord. of 2-17-99; Ord. of 6-7-99; Ord. of 1-3-00; Ord. No. 1265, 7-5-00; Ord. No. 1323, 3-19-03; Ord. No. 1406, 3-6-06; Ord. No. 1556, 10-15-07; Ord. No. 1576, 12-15-08; Ord. No. 1643, 1-3-11)

Sec. 19-17. - Golf course improvement revolving fund.

- (a) A golf course improvement revolving fund is established to support capital expenditures for playing surface maintenance, repair, and reconstruction at the Alling Memorial Golf Course. Said fund shall derive its income from receipts of the surcharge on fees provided for in this chapter, and interest which may be earned on the balance in said fund. Relevant charter provisions and ordinances pertaining to capital projects shall govern appropriation of monies that accrue in said fund.
- (b) Any new agreement, renewal or extension of the management agreement in effect on March 1, 1999, for operation of the Alling Memorial Golf Course shall specify that all sums collected in connection with the surcharge on fees provided for in the above section shall be deposited into the golf course improvement revolving fund. No sums collected in connection with said surcharge shall be included in calculations of fees or other compensation payable to the golf course operator.

(Code of 1985, § 19-7.1; Ord. of 3-18-91; Ord. of 2-17-98; Ord. No. 1406, 3-6-06)

Sec. 19-18. - Golf course enterprise fund.

- (a) A fund entitled the Alling Memorial Golf Course Enterprise Fund ("the fund") is established, commencing with the 1997-98 fiscal year. This fund shall account for all revenues and expenses associated with the operations and management of the Alling Memorial Golf Course.
- (b) All assets, liabilities and reserves (including depreciation reserves) applicable to the Alling Memorial Golf Course shall be transferred to the fund effective July 1, 1997.
- (c) The accounts and records of the fund shall be maintained under the enterprise fund accounting, in which the golf course is operated and managed under a private self-sustaining fund, governmental accounting, auditing, financial reporting and generally accepted accounting principles. The controller or his/her designee shall prescribe the account and record forms, render reports and maintain such accounts and records pursuant to article VII, section 22(b) of the city charter as amended from time to time.
- (d) The mayor shall submit the annual budget of the fund as a component of the annual city budget submission required by this Code, and such budget shall become effective upon approval by order of the board of aldermen.

(Code of 1985, § 19-7.2; Ord. of 5-5-97; Ord. No. 1406, 3-6-06)

Sec. 19-19. - Edgerton Park.

- (a) *Character of the park.* Edgerton Park is to be maintained as an arboretum and botanical garden. The public's use of it is restricted to passive activities, which will not harm or change its essential character.
- (b) *Hours.* Edgerton Park shall be open daily from 6:00 a.m. to sunset, or to the time specified by the director.

(Ord. of 5-3-82, § 1; Code of 1985, § 19-8; Ord. No. 1406, 3-6-06)

Sec. 19-20. - Ralph Walker Skating Rink at Blake Field.

- (a) *Hours of operation.* Weather permitting, the rink shall be in operation from November 15th through March 15th. The director shall determine public skating hours, which shall be a minimum of seven hours per week with times on Saturdays, Sundays and holidays. Hours of public skating shall be clearly posted in the rink. Peak hours shall be considered to be all hours from Monday through Friday, 2:00 p.m. to 11:00 p.m., Saturdays, Sundays, holidays, and New Haven Public School vacation days. Contract ice rental rates shall be for fifty (50) minutes of ice time.
- (b) *Fee schedule.* Rates for Ralph Walker Ice Rink ice rentals and skating shall be those authorized, approved and amended from time to time by the board of aldermen, and are listed in this Code.
- (c) *Rules of conduct.* In addition to the rules of conduct found in this chapter, the following rules are applicable to the rink. The penalty for violation of these additional rules shall be forfeiture of use of the rink.
 - (1) No one shall be allowed on the ice without skates.
 - (2) Skaters must leave the ice when asked to do so by the rink operators.
- (d) *Skating Rinks Fund.*
 - (1) A fund entitled the Skating Rinks Fund ("the fund") is established commencing with the 2000-01 fiscal year, to account for revenues and expenses associated with the operation, maintenance and improvement of any skating rinks owned by the city ("the facilities").
 - (3) An annual report on the fund shall be provided pursuant to this Code.
 - (4) Sums appropriated by the board of aldermen for operation, maintenance or capital repairs of the facilities may be used to supplement expenditures from the fund, but such sums shall not be added to the fund unless the board has appropriated them.

(Ord. of 5-3-82, § 1; Ord. of 4-15-85, § 6; Code of 1985, § 19-9; Ord. of 3-7-88, § 1; Ord. of 6-6-88, § 4b; Ord. of 5-29-90; Ord. of 11-18-91; Ord. of 3-7-94; Ord. of 11-10-94; Ord. of 5-24-99; Ord. of 11-20-00; Ord. No. 1345, 2-2-04; Ord. No. 1406, 3-6-06)

Sec. 19-21. - Athletic leagues.

This section shall apply to all leagues operated by the recreation division of the parks department:

Fees. Entry fees payable by each team each season in softball and basketball leagues shall be those authorized, established and amended from time to time by the board of aldermen, and are listed in this Code.

(Ord. of 5-3-82, § 1; Code of 1985, § 19-10; Ord. of 6-6-88, § 4c; Ord. of 12-4-89; Ord. of 5-29-90; Ord. of 3-18-91; Ord. of 5-24-99)

Sec. 19-22. - Swimming pools.

Hours. The parks director or his/her designee(s) shall annually post hours of operation of all swimming pools operated by the recreation division of the parks department based upon their availability.

(Code of 1985, § 19-10.1; Ord. of 5-29-90; Ord. of 5-24-99; Ord. No. 1406, 3-6-06)

Sec. 19-23. - Use of stages and auxiliary equipment.

- (a) *Responsibility for costs.* The parks department will assume all costs for use of the stages, bleachers, the public address system, generator and light tower when used for events sponsored by the city. All other entities requesting use of said stages or equipment must agree to assume all costs, including regular, overtime and other labor costs incurred by that use.
- (b) *Fees and costs.* Rental or user fees for stages, bleachers, the public address system, generator and light tower shall be as authorized, established and amended from time to time by the board of aldermen, and are listed in this Code.
- (c) *Insurance.* In addition to applicable fees and costs as referenced above, adequate accident and liability insurance as required by the parks director must be secured and supplied in advance of said rental or use.
- (d) *Permit.* Persons or groups must obtain a permit in order to rent stages and equipment referenced in subsection (a). This applies to all city agencies and departments except the parks department. A permit fee as authorized, established and amended from time to time by the board of aldermen shall be imposed as listed in this Code. However, a city department is not required to pay the fee to use them.
- (e) *Restriction of use.* Stages and equipment described in subsection (a) of this section shall be rented only for use on property within the limits of New Haven, or on property outside the city limits that the city loans or leases.

(Ord. of 5-3-82, § 1; Ord. of 12-13-84; Code of 1985, § 19-19; Ord. of 5-5-86, § 3; Ord. of 6-6-88, § 4d; Ord. of 5-29-90; Ord. No. 1406, 3-6-06)

Sec. 19-24. - Fees for building use.

Fees for the rental use of the Coogan and Salperito building shall be those as are authorized, established and amended from time to time by the board of aldermen, and listed in this Code.

(Code of 1985, sec. 19-19.5; Ord. No. 1345, 2-2-04; Ord. No. 1406, 3-6-06)

Sec. 19-25. - Contractual relationships.

The board of park commissioners may enter into contractual relationships with profit and nonprofit organizations for programmatic use of parks and park structures, provided that the programs are in accordance with the intended use of the parks, and that the organization's activities are open to the public. Such contractual relationships must be within the limits of charter section 117 as amended from time to time, and are to be distinguished from permits for activities elsewhere in this chapter.

(Ord. of 5-3-82, § 2; Code of 1985, § 19-20; Ord. No. 1406, 3-6-06)

FOOTNOTE(S):

⁽⁹¹⁾ **Editor's note**— Ord. No. 1406, adopted March 6, 2006, amended and restated former Ch. 19 in its entirety. Former §§ 19-21—19-25, pertaining to the New Haven Coliseum Authority, and former Art. II, pertaining to the convention and visitors commission, have been deleted as being obsolete. The deletion of former §§ 19-21—19-25 was ratified by Ord. No. 1597, adopted Aug. 3, 2009, which repealed these former sections. ([Back](#))

(91) The legislative history notes in parentheses following the sections of this chapter include the section number formerly used in the 1985 reprinting, as amended. ([Back](#))

EXHIBIT B

New Haven, Connecticut, Code of Ordinances >> TITLE I - CHARTER >> ARTICLE XXIII. - DEPARTMENT OF PARKS AND RECREATION >>

ARTICLE XXIII. - DEPARTMENT OF PARKS AND RECREATION

Sec. 113. - Created; director as head of department.

Sec. 114. - Board of park commissioners; compensation, qualifications, term appointment.

Sec. 115. - Role of board.

Sec. 116. - Director to provide division of recreation.

Sec. 117. - Director; general powers, duties.

Sec. 118. - Director; power to hire employees, call on city engineer for engineering services.

Sec. 119. - Authority of board to accept, control property.

Sec. 120. - Applicability of budgeting, financial provisions to director and park commission.

Sec. 113. - Created; director as head of department.

There shall be in said city a department of parks and recreation, which shall consist of a director of parks and recreation, a board of park commissioners and such a number of employees as shall be prescribed by the board upon recommendation by the director. The director of parks and recreation shall be a person experienced in the management and administration of city parks and recreation and shall be the head of the department. The director shall be appointed by and subject to the authority of the mayor. The person in office as director of parks and recreation on the effective date of this charter shall hold office until his successor has been duly appointed and qualified.

Sec. 114. - Board of park commissioners; compensation, qualifications, term appointment.

There shall be in said department a board of park commissioners which shall consist of the mayor and eight commissioners who shall serve without pay, shall be electors and residents of the city and shall be chosen as follows: The three permanent or citizen commissioners of the East Rock Park Commission shall be commissioners of said board; three commissioners shall be appointed by the mayor, as hereinafter provided, and two commissioners shall be elected by the board of aldermen bipartisanly in each year. The three citizen commissioners of the East Rock Park Commission shall continue to hold their respective positions, and their successors shall be appointed pursuant to the provisions of the act incorporating East Rock Park in the City of New Haven and the amendments thereto. The members of said board holding office when this charter takes effect shall continue to hold their respective offices until the term for which they were appointed shall expire, unless sooner removed for cause which cause shall not be political. In January every year the mayor shall appoint one commissioner to hold office for three years from the first day of February. Not more than two members of said board appointed by the mayor shall belong to the same political party. The board shall adopt rules for the conduct of its business consistent with this charter.

Sec. 115. - Role of board.

The board of park commissioners shall advise and consult with the director of parks and recreation pertaining to his duties and to the conduct of the department. In general the board shall be responsible for policy making with the advice of the director of parks and recreation and for the evaluation of these policies. This shall include, but not be limited to the adoption of such rules and regulations, on recommendation of the director of parks and recreation and not inconsistent with the general statutes of the provisions of this charter, related to the use, preservation and enjoyment of all public parks and recreation areas of the City of New Haven.

Sec. 116. - Director to provide division of recreation.

Said director shall provide for a division of recreation which shall be under the supervision of the director of parks and recreation, who shall have charge of all municipal recreation, supervising and organizing recreation activities in this city.

Sec. 117. - Director; general powers, duties.

Said director shall have charge, control and management and use of all public parks, squares and open places which are included in the park system of the City of New Haven on the effective date of this charter, and which may hereafter be acquired or dedicated to public use, as parts of or additions to the public park system of the City or Town of New Haven, whether within or without the limits of said city, but not including streets in parks within the city limits. The director shall have charge of the selection, cultivation, procuring, planting, spraying, trimming, preservation and removal of all trees in the streets of the City of New Haven and in parks and public places of said city. The director shall have charge of the preservation, development and adornment of said parks and places and the board of park commissioners is hereby empowered to make and alter, from time to time, all needful rules and regulations for the maintenance of order, safety and decency in said parks and places, use of recreation facilities, the prevention of any depredation therein or misuse of the same, and the protection and preservation of said parks and places, both within and without the limits of the city, and to affix penalties for disobedience thereto, which rules and regulations shall have the force of ordinances of the City of New Haven; provided, that no such rule or regulation shall be of any effect unless it shall have been first approved by the board of aldermen, and then published at full length in one or more of the daily newspapers published in New Haven, and also printed and posted in conspicuous places within the limits of the parks or places to which such regulation is intended to apply. For the purpose of enforcing such rules and regulations, all such parks and places, whether within or without the limits of the City of New Haven, are hereby placed under the police jurisdiction of the City of New Haven, and complaints for violation of such regulations may be made by the prosecuting attorney to the proper state court; but nothing contained in this section shall be construed to affect the general police or governmental jurisdiction of any town within whose limits any portion of such public park or place may be situated. Any member of the police department or the superintendent of any park may arrest, without warrant, in any of such parks or places, whether within or without the limits of the City of New Haven, any person who has broken any park rules or committed any other offense in said parks; and the proper state court shall have jurisdiction of all misdemeanors committed within the limits of said parks. Said board, with the approval of the board of aldermen, shall have power, in the name and on behalf of the City of New Haven, to procure by gift, purchase, lease exchange or other contract, or by condemnation as herein

provided, real property, whether within or without the limits of the City of New Haven, for the purpose of providing public parks or the enlarging of existing parks, provided no expenditures shall be made in excess of the amount previously appropriated for such purpose, and provided no land shall be acquired by said board in the manner above specified within the Town of West Haven except within an area outlined in red on a map on file with the town clerk in West Haven, dated April 2, 1925, and known as "Map of West River Park" and provided no land shall be acquired by said board in the manner above specified in any other town except by agreement with the officials of the town in which such land shall be located.

Sec. 118. - Director; power to hire employees, call on city engineer for engineering services.

Said director shall have power to appoint or employ such superintendents, engineers and other officers and employees as said director may deem necessary, under the direction and in accordance with the rules of the department of personnel and civil service. Said director may call on the city engineer for such services as may be deemed necessary.

Sec. 119. - Authority of board to accept, control property.

The board of park commissioners of New Haven is hereby authorized and empowered to accept, with the approval of the board of aldermen, any and all devises, legacies or gifts of property, either real or personal, of any kind or class, that may be given or left to it by will or devise; and the board of park commissioners is hereby given full power and authority, as trustees or otherwise, to invest, reinvest property of any class or kind, already given, or which may hereafter be given, either to said board of park commissioners of New Haven, or to the City of New Haven in trust for the use of said board of park commissioners.

Sec. 120. - Applicability of budgeting, financial provisions to director and park commission.

The director of parks and recreation and the board of park commissioners shall be subject to all the provisions of this charter pertaining to budgetary control and financial administration which are applicable to other departments, agencies and offices of the city except when the same is in conflict with the discretion of the director and the board in the management and control of trust funds for park purposes.

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ERIN MITCHELL, DANIELLE DIGIROLAMO,
JOSH SMITH, DONALD MONTANO,
ALEX SUAREZ, TY HAILEY, RAY NEAL,
AND JOSHUA HELTKE

Plaintiffs,

V.

CITY OF NEW HAVEN, JOHN DESTEFANO,
DEAN ESSERMAN,
PROPRIETORS OF THE NEW HAVEN GREEN

Defendants,

:
:
: CIVIL ACTION NO.
: 3:12-CV-00370 (MRK)
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: March 23, 2012

DECLARATION OF ROBERT LEVINE

I, Robert Levine, declare as follows:

1. I am currently employed by the City of New Haven as the Director of the City's Department of Parks, Recreation and Trees. I have been so employed for over thirteen years.

2. The City's Department of Parks, Recreation and Trees is responsible for the management and maintenance of the City's network of park grounds.

3. The City has adopted various ordinances that, among other things, regulate park use hours and generally prohibit all overnight camping activities in City parks and other places of public and private property throughout the City. (See, New Haven, Connecticut, Code of Ordinances, Title III, Chapter 19, available at www.municode.com/library/CT/New_Haven).

4. In accordance with Chapter 19 of the Code of Ordinances, an organization, group, or individual who want to hold or present an event or similar activity in any park must obtain a permit.

5. Neither "Occupy New Haven" as a organization or group, nor any individually named Plaintiff, has applied for a permit in connection with any of their activities at The New Haven Green.

6. As a result, no permit has ever been issued to any Plaintiff or "Occupy New Haven."


I declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge.

Dated: March 23, 2012



ROBERT LEVINE

Dated: March 23, 2012


Pamela Popolizio, Notary Public
State of Connecticut
My Commission Expires 6/30/2013

4. As a result of my job duties, I have patrolled the portion of The Green referred to as the Upper Green at least five times per week and have personally witnessed the following as late as March 22, 2012:

- a. Structures have been placed on the Green. These structures include tents, canopies, tarps, furniture, tires, wood pallets, cubicle walls, and equipment used to make structures, including wood, plastic items, and rope;
- b. Garbage, food, clothes, and other material strewn in the area;
- c. Ropes and/or string tied to trees, and articles of clothing and flags hanging from the trees; and
- d. Large structures described as solar panels.

5. I have worked closely with the Occupy New Haven movement, and I have had a good working relationship with its members up until recently. On March 20, 2012, I was asked to escort the New Haven Fire Marshal to the encampment on The Green for the purpose of ordering them to remove the wood pallets because of the fire hazard they present. The “occupiers” were very hostile and refused to remove the pallets.

6. Occupy New Haven members have continued to camp and sleep on The Green during the hours between 10:00 p.m. and 6:00 a.m.

7. I have observed that a number of the City’s homeless population have joined the “camp” and no longer would like to go to shelters.

8. Through the discharge of my duties, I have been able to observe the impact that the “occupation” has had on The Green.

9. Since Occupy New Haven has been present on The Green, there have been numerous calls made to the police that have resulted in the dispatch of officers to The

Green. For example, on March 13, 2012, officers responded to an incident involving a woman sleeping in a tent overnight on The Green who was allegedly sexually assaulted.

10. The police have also been dispatched to The Green to investigate complaints of drug use and public intoxication. Although no arrests have been made at the Occupy New Haven encampment, the presence of the occupiers has resulted in a need for regular police presence.

11. Because personal items, tents, tarps and other structures are being stored on the grass and under trees, the ground has been compacted. As a result, where there was once grass, there is now bare ground.

12. The pictures attached as Exhibits A-L truly and accurately depict the conditions that I have observed on the Green.

I declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge.

Dated: March 23, 2012


LIEUTENANT REBECCA SWEENEY

Dated: March 23, 2012



Pamela Popolizio, Notary Public
State of Connecticut
My Commission Expires 6/30/2013



EXHIBIT A



Source:

http://www.newhavenindependent.org/index.php/archives/entry/occupy_calls_for_help/

EXHIBIT B



Source:

http://www.newhavenindependent.org/index.php/archives/entry/occupy_calls_for_help/

EXHIBIT C



Source:

http://www.newhavenindependent.org/index.php/archives/entry/woman_wheeled_off_the_green/

EXHIBIT D



Source:

http://www.newhavenindependent.org/index.php/archives/entry/occupy_issues_official_refusal_to_leave/

EXHIBIT E



Source:

http://www.newhavenindependent.org/index.php/archives/entry/a_dozen_hands_went_up/

EXHIBIT F



Source:

http://www.newhavenindependent.org/index.php/archives/entry/occupy_sees_walls_closing_in/

EXHIBIT G



Source: <http://www.newhavenindependent.org/index.php/archives/entry/fire/>

EXHIBIT H



Source: <http://www.newhavenindependent.org/index.php/archives/entry/fire/>

EXHIBIT I



Source:

http://www.nhregister.com/articles/2012/03/17/news/new_haven/doc4f65568e404f7879539689.txt#photo1

EXHIBIT J



EXHIBIT K



EXHIBIT L



5. The City, and the Parks Department specifically, is dedicated to maintaining the City's parks in an attractive and intact condition to ensure their availability to the general public who wish to enjoy them.

6. The City has adopted various ordinances which ensure the ability of the general public to enjoy the park facilities, to ensure the viability and maintenance of those facilities, to protect the public's health, safety and welfare, and to protect the City's parks and public property from overuse and unsanitary conditions, including but not limited to, camping and overnight sleeping activities in City parks not specifically designed for those purposes. (See, New Haven, Connecticut, Code of Ordinances, Title III, Chapter 19, available at www.municode.com/library/CT/New_Haven).

7. For example, Sec. 19-5 (b)(16) and Sec. 19-5 (b)(5) were established and are enforced in order to make the parks of the City safer, cleaner, and a more pleasant place to visit for all families and individuals of the City.

8. As a result of my job duties, I have visited The Green various times since Occupy New Haven began its "occupation" of The Green and have personally observed that several dozen tents and other structures have been erected. I observed that some tents were being used to store clothes, several televisions, and other items. In addition, I observed that one tent was constructed to house a rudimentary kitchen that contained stovetops and other cooking equipment, as well as a large supply of food.

9. I also observed that tires, furniture, wood pallets and various other items were strewn about The Green. I further observed that a make-shift solar panel was being used and stored on The Green. In addition, I observed that stakes were dug into the

ground, ropes were tied to trees, that some trees had items hanging and/or leaning on them, and that tents and other items were placed right under the trees.

10. As a result of the conditions and use of The Green, I have observed that the grass has become compacted and is now destroyed to the point that all that remains is a large dirt area.

11. In addition to damage to the grass, the soil under trees has been compacted, which reduces the air space between soil and destroys the trees' roots. Further, the ropes that are being tied to the trees and items that are being hung or are leaning on the trees have further damaged the trees.

12. Restoring the grass and trees will cost approximately \$20,000 to \$25,000.

13. Trees are of particular importance to the City and its citizens. New Haven is home to America's first public tree planting program, which means that today the city is alive with trees and is called the "Elm City."

14. The Green is not designed for continuous camping and living, and such activity has damaged The Green in a significant way, as I have described above.

15. The pictures attached as Exhibits A-G truly and accurately depict the conditions that I have observed.


16. The picture attached as Exhibit H truly and accurately depicts The Green as it was prior to the occupation.

I declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge.

Dated: March 26, 2012



CHRISTY HAAS



3/26/2012

SULMANN EL-MAMMAN
NOTARY PUBLIC
MY COMMISSION EXPIRES APRIL 30, 2012

EXHIBIT A



Source:

http://www.newhavenindependent.org/index.php/archives/entry/occupy_calls_for_help/

EXHIBIT B



Source:

http://www.newhavenindependent.org/index.php/archives/entry/occupy_calls_for_help/

EXHIBIT C



Source:

http://www.newhavenindependent.org/index.php/archives/entry/woman_wheeled_off_the_green/

EXHIBIT D



Source:

http://www.newhavenindependent.org/index.php/archives/entry/occupy_issues_official_refusal_to_leave/

EXHIBIT E



Source:
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EXHIBIT F



Source: <http://www.newhavenindependent.org/index.php/archives/entry/fire/>

EXHIBIT G



EXHIBIT H



UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ERIN MITCHELL, DANIELLE DIGIROLAMO,
JOSH SMITH, DONALD MONTANO,
ALEX SUAREZ, TY HAILEY, RAY NEAL,
AND JOSHUA HELTKE

Plaintiffs,

V.

CITY OF NEW HAVEN, JOHN DESTEFANO,
DEAN ESSERMAN,
PROPRIETORS OF THE NEW HAVEN GREEN

Defendants,

:
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: CIVIL ACTION NO.
: 3:12-CV-00370 (MRK)
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: March 26, 2012

DECLARATION OF MICHAEL GRANT

I, Michael Grant, declare as follows:

1. I am currently employed by the City of New Haven as Chief of the Fire Department.
2. I joined the New Haven fire service in 1972 and was promoted to lieutenant in 1981 and captain in 1988. I served as drillmaster at the New Haven fire academy from 1984 until I was appointed as assistant chief in 1996.
3. I was appointed to chief of the Fire Department in 2003, and remain in that position today.
4. The New Haven Fire Department strives to provide the highest levels of life safety and property protection through fire prevention.
5. The past and current conditions at The New Haven Green pose serious fire safety hazards.

6. For example, tents, tarps and other structure are not fire retardant and thereby increase the risk that if a fire is started it would spread quickly.

7. In addition, the configuration of the several tents that I have observed poses a serious fire safety hazard. Many tents are in close proximity to one another and are grouped together under a larger tarp. Not only does this increase the risk of fire spreading quickly, but it also means that there is only one entry point and exit point if a fire were to erupt.

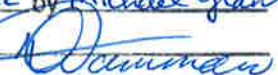
8. Further, I have observed the collection of highly flammable material, including trash, tires and wood pallets, all posing serious fire hazards.

I declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge.

Dated: March 26, 2012



CHIEF MICHAEL GRANT

State of CT, County of New Haven
Signed before me on this 26th day
of March, 2012 by Michael Grant
Notary Public 

DOMINIC TAMMARO
NOTARY PUBLIC
MY COMMISSION EXPIRES MAY 31, 2012

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ERIN MITCHELL, DANIELLE DIGIROLAMO,
JOSH SMITH, DONALD MONTANO,
ALEX SUAREZ, TY HAILEY, RAY NEAL,
AND JOSHUA HELTKE

Plaintiffs,

V.

CITY OF NEW HAVEN, JOHN DESTEFANO,
DEAN ESSERMAN,
PROPRIETORS OF THE NEW HAVEN GREEN

Defendants,

:
:
: CIVIL ACTION NO.
: 3:12-CV-00370 (MRK)
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: March 23, 2012

DECLARATION OF LISA WILSON

I, Lisa Wilson, declare as follows:


1. I am currently employed by the City of New Haven as the Registrar of Vital Statistics. I have been employed in this capacity since November 2010.
2. As the Registrar of Vital Statistics, I oversee and supervise The Office of Vital Statistics.
3. The Office of Vital Statistics is in charge of issuing Elm City Resident Identification Cards to those who meet certain criteria.
4. I am personally aware, through the performance of my job duties that an individual who is part of the Occupy New Haven movement, Joshua Heltke, sought to obtain an Elm City Resident Identification Card claiming that his residential address was "The Green."

I declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge.

Dated: March 23, 2012


LISA WILSON

Dated: March 23, 2012


Pamela Popolizio, Notary Public
State of Connecticut
My Commission Expires 6/30/2013

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ERIN MITCHELL, DANIELLE DIGIROLAMO,	:	
JOSH SMITH, DONALD MONTANO,	:	CIVIL ACTION NO.
ALEX SUAREZ, TY HAILEY, RAY NEAL,	:	3:12-CV-00370 (MRK)
AND JOSHUA HELTKE	:	
	:	
Plaintiffs,	:	
V.	:	
	:	
CITY OF NEW HAVEN, JOHN DESTEFANO,	:	
DEAN ESSERMAN,	:	
PROPRIETORS OF THE NEW HAVEN GREEN	:	
	:	
Defendants,	:	March 23, 2012

DECLARATION OF CHARLES ANYINAM

I, Charles Anyinam, declare as follows:

1. I am currently employed by the City of New Haven Department of Police Services as a crime analyst. I have been employed in this capacity for over ten years.
2. As a crime analyst, I am responsible for the mapping and analysis of crime that occurs within the City of New Haven.
3. On March 20, 2012, I compiled three (3) lists of calls for service to the New Haven Green. The first list of calls for service covers the time period of October 15, 2009 through March 18, 2010. The second list of calls for service covers the time period of October 15, 2010 through March 18, 2011. The third list of calls for service covers the time period of October 15, 2011 through March 18, 2012. (Lists of Calls for Service are attached hereto as Exhibit 1).
4. I certify that the lists of calls for service attached as Exhibit 1 are true and accurate copies.

I declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge.

Dated: March 23, 2012

3/23/2012



CHARLES ANYINAM

SULMANN EL-MAMMAN
NOTARY PUBLIC
MY COMMISSION EXPIRES APRIL 30, 2012

EXHIBIT 1

CALLS FOR SERVICE BY START CALLS

OCT 15 2009 THROUGH MARCH 18 2010

START_DESC	Total
S25 - BURGLAR ALARM	9
S135 - MOVING MV VIOLATION q	3
S20 - FIGHT	2
S8 - SUSPICIOUS PERSON	2
BREACH - BREACH OF PEACE	1
D C - DISORDERLY CONDUCT	1
S10 - RECOVERED AUTO	1
S106 - MAINTAIN RADIO COMMUNICATION	1
S136 - ADMINISTRATIVE ASSIGNMENT	1
S16 - DRUNK PERSON q	1
S37 - DOMESTIC	1
S44 - DOOR CHECK WELFARE CHECK	1
S56 - PARKING COMPLAINTS q	1
Grand Total	25

CALLS FOR SERVICE BY START CALLS

OCT 15 2010 THROUGH MARCH 18 2011

START_DESC	Total
BREACH - BREACH OF PEACE	3
S20 - FIGHT	2
S25 - BURGLAR ALARM	2
S56 - PARKING COMPLAINTS q	2
HOLDUP25 - HOLDUP ALARM	1
S136 - ADMINISTRATIVE ASSIGNMENT	1
S22 - ACCIDENT	1
S37 - DOMESTIC	1
S48 - ASSAULTS	1
S65 - ACCIDENT OTHER THAN MOTOR VEHICLE	1
S80 - THEFT	1
S90 - SICK PERSON	1
S90M - EMOTIONALLY DISTURBED	1
Grand Total	18

CALLS FOR SERVICE BY START CALLS

OCT 15 2011 THROUGH MARCH 18 2012

START_DESC	Total
S16 - DRUNK PERSON q	9
D C - DISORDERLY CONDUCT	7
S136 - ADMINISTRATIVE ASSIGNMENT	7
S8 - SUSPICIOUS PERSON	5
S25 - BURGLAR ALARM	4
BREACH - BREACH OF PEACE	3
S90 - SICK PERSON	3
S100 - LOST/FOUND PROPERTY	2
S20 - FIGHT	2
S56 - PARKING COMPLAINTS q	2
S90M - EMOTIONALLY DISTURBED	2
O-200 - RAPE	1
S106 - MAINTAIN RADIO COMMUNICATION	1
S22 - ACCIDENT	1
S37 - DOMESTIC	1
S68 - HAZARD (USE S135 FOR MV) q	1
S80 - THEFT	1
Grand Total	52