



## **JURISDICTION AND VENUE**

1. This action arises under the authority vested in this Court by virtue of 42 U.S.C. § 1983, 42 U.S.C. § 1985, 28 U.S.C. § 1331, § 28 U.S.C. § 1343 and 28 U.S.C. § 1367. Venue is proper in this Court.

## **PARTIES**

2. Plaintiff, Margaret Betz, is involved in the application for a variety of permits on behalf of, and in support of, groups planning protest activities during and around the time of the G-8 Summit. She is also involved in other free speech activities in and around Savannah and Chatham County and intends to engage in further free speech activity subject to the challenged ordinances after the G-8 Summit.
3. Defendant Chatham County, is a municipality of the State of Georgia and may be served and sued through: Chairperson Dr. Billy B. Hair, 124 Bull Street, Suite 200, Savannah, GA 31401.
4. Defendant City of Savannah, is a municipality of the State of Georgia and may be served and sued through: Mayor Otis S. Johnson, City Hall, 2 East Bay Street, Savannah, GA, 31401.

## **FACTUAL ALLEGATIONS**

5. As a result of recommendations from the G-8 Legal Subcommittee to draft

protest ordinances similar to those passed in Augusta, Georgia in anticipation of the 2003 Masters Golf Tournament there, municipalities affected by the G-8 amended their ordinances for permitted protest and other public activities. Following the 11<sup>th</sup> Circuit's decision finding the Augusta ordinance unconstitutional, and a subsequent lawsuit against Glynn County and the City of Brunswick, those municipalities, which also adopted similar ordinances, have changed them so as to better comply with the First Amendment.

6. The Chatham County Public Gathering Ordinance (attached hereto as Exhibit A) and the City of Savannah Public Gathering Ordinance (attached hereto as Exhibit B) are identical, to the point of containing the same typographical error (omission of the word "traffic") in Chatham Public Gathering Ordinance § 18-405(3)(h) and Savannah Code Permit § 3-6005(o).
7. In addition, the City of Savannah has another, preexisting ordinance, along with accompanying regulations, that also governs activities in parks, including expressive activities. The 2004 City Revenue Ordinance governs fees that an Applicant must pay to the City to reserve a park for certain activities. 2004 City Revenue Ordinance Art. R § 3(c)(1) (hereinafter

“Revenue Ordinance,” excerpt attached hereto as Exhibit C); the “Regulations, Policies Procedures and Fees for Special Events in the City’s Scenic Parks and Squares” (hereinafter “Special Events Regulations,” attached hereto as Exhibit D) expand upon Article R, and regulations entitled “Banners for Special Events” (hereinafter “Banner Regulations,” attached hereto as Exhibit E) govern the regulations for banners (and perhaps other signs) used during special events.

## CHATHAM PERMIT ORDINANCE

### Scope of Application of Chatham Permit Ordinance

8. The Chatham Public Gathering Ordinance requires a permit for “any parade or public assembly.” Section 18-402. A “[p]arade” includes “**any** march, demonstration, procession or motorcade consisting of persons, animals, or vehicles or combination thereof upon the streets, parks or other public grounds . . . **with an intent of attracting public attention** that interferes with the normal flow or regulation of traffic upon the streets, parks or other public grounds.” Exhibit A, Section 18-401(3) (emphasis added). A “[p]ublic assembly” includes “**any meeting, demonstration, picket line, rally or gathering for a common purpose** that interferes with the normal flow or regulation of pedestrian or vehicular traffic or occupies any public

area or facilities open to the general public.” *Id.*, Section 18-401(5)  
(emphasis added).

9. **The permit requirement applies to “[p]arades” and “[p]ublic assemblies” that consist of even just *one* person.** Section 18-401(3) & (5)  
(emphasis added).
10. Permit requirements are a burden on free expression in a public forum and a prior restraint.
11. Content-based permit requirements for free expression are presumptively unconstitutional, subject to strict scrutiny and may only be justified if narrowly tailored to a compelling government interest. Content-neutral time, place and manner regulations are subject to intermediate scrutiny and must leave open ample alternative avenues of communication, be supported by a substantial government interest, and not restrict substantially more speech than is necessitated by that interest.
12. Chatham County’s ordinance arbitrarily requires an individual, who seeks to demonstrate alone, to obtain a permit. Section 18-401(3) & (5).
13. Chatham County does not have a substantial or compelling interest in applying its permit ordinance to one individual who is engaging in free

speech activities, and the restriction is not sufficiently narrowly tailored to the County's asserted interests.

14. Chatham County has established vague and overbroad standards (*e.g.*, “with an intent of attracting public attention that interferes with the normal flow or regulation of traffic”) for who must apply for a permit that give unbridled discretion to the licensing authority to determine whether a permit is required.

#### **Application Process for Chatham Permit Ordinance**

15. A person wishing to engage in a “[p]arade” or “[p]ublic assembly” must apply for a permit. Exhibit A, Section 18-404. The County Manager has “ten working days of receipt of an application” to review the application and “render a decision.” *Id.*, Section 18-405(a).
16. Beyond the basic information (identification and details of event) common to most municipal permit applications, the application **seeks information about the Applicant's and others' prior protest activities** “of a substantially similar nature.” *Id.*, Section 18-404(k)(3). Citizens have a constitutionally protected right to protest anonymously, and this requirement to unveil “similar” free expression activity is not supported by a substantial

or compelling government interest and is an unconstitutional burden on free speech.

17. The Chatham Public Gathering Ordinance also requires the Applicant to submit an **“indemnification and hold harmless agreement . . . in a form satisfactory to the County Attorney.”** *Id.*, Section 18-404(k)(5) (emphasis added). The indemnification requirement places **unbridled discretion** in the hands of the licensing authority to determine whether the indemnification is “satisfactory.”

#### **Chatham’s Standards for Denying/Revoking a Permit**

18. The licensing authority makes decisions about whether to grant, deny or revoke a permit **“in light of all contents and goals, intentions, and presumptions as set out in this ordinance”** and on **“a recommendation from the Chief of Police.”** *Id.*, Section 18-405(1) (emphasis added).
19. Beyond the reasons for denial or revocation set forth in the preceding paragraph, the Chatham Public Gathering Ordinance sets forth **ten** other reasons that may independently or in “combination” be used by the licensing authority to deny or revoke a permit.
20. Certain of the ten grounds, set out below, are facially unconstitutional because they give **unbridled discretion** to the licensing authority and place

unconstitutional burdens on protected speech including, in Section 18-405

(3) (emphasis added):

**h . . . “unduly restrict and/or congest (vehicular or pedestrian)[traffic]”**

**g . . . “present an unreasonable danger to the health or safety of participants in the event or other members of the public”**

**i . . . “unreasonable disturbance of the peace,” “unreasonably burden lawful commerce,” or “unreasonably intrude upon the privacy or property of citizens”**

21. **The standards for denial of a permit also apply to revocation** of a permit for a protest already taking place. The County manager may “terminate a parade or public assembly at any time . . . should any consideration or combination of considerations . . . become apparent” or if law enforcement determines that the participants have “violate[d] . . . or deviate[d] in [a] material fashion from the plan submitted.” *Id.*, Section 18-408.
22. The standards for denial or revocation of a permit, which under the terms of the ordinance are to be considered both individually and collectively, **give unbridled discretion to the licensing authority.**
23. The standards for denial or revocation of a permit, which under the terms of the ordinance are to be considered both individually and collectively, **place unconstitutional burdens on free speech** in a public forum.

24. The standards for denial or revocation of a permit, which under the terms of the ordinance are to be considered both individually and collectively, are a **prior restraint on speech** in a public forum.
25. The standards for denial or revocation of a permit, which under the terms of the ordinance are to be considered both individually and collectively, are not supported by a substantial or compelling government interest and are **not sufficiently narrowly tailored** to any such interest.

## CITY OF SAVANNAH PERMIT ORDINANCE

### Scope of Application of Savannah Permit Ordinance

26. The Savannah Public Gathering Ordinance requires a permit for “any parade or public assembly.” Exhibit B, Section 3-6002. A “[p]arade” includes “**any** march, demonstration, procession or motorcade consisting of persons, animals, or vehicles or combination thereof, upon the streets, parks or other public grounds . . . **with an intent of attracting public attention** that interferes with the normal flow or regulation of traffic upon the streets, parks or other public grounds.” *Id.*, Section 3-6001(c) (emphasis added). A “[p]ublic assembly” includes “**any meeting, demonstration, picket line, rally or gathering for a common purpose** that interferes with the normal flow or regulation of pedestrian or vehicular traffic or occupies any public

area or facilities open to the general public.” *Id.*, Section 3-6001(e)  
(emphasis added).

27. **The permit requirement applies to “parades” and “public assemblies” that consist of even just *one* person.** *Id.*, Section 3-6001(c) & (e).
28. Permit requirements are a burden on free expression in a public forum and a prior restraint.
29. Content-based permit requirements for free expression are presumptively unconstitutional, subject to strict scrutiny and may only be justified if narrowly tailored to a compelling government interest. Content-neutral time, place and manner regulations are subject to intermediate scrutiny and must leave open ample alternative avenues of communication, be supported by a substantial government interest, and not restrict substantially more speech than is necessitated by that interest.
30. The City of Savannah has arbitrarily required an individual, who seeks to demonstrate alone, to obtain a permit.
31. The City of Savannah does not have a substantial or compelling interest in applying its permit ordinance to one individual who is engaging in free speech activities, and the restrictions is not sufficiently narrowly tailored to the County’s asserted interests.

32. The City of Savannah has established vague and overbroad standards (e.g., “with an intent of attracting public attention that interferes with the normal flow or regulation of traffic . . .”) for who must apply for a permit that give unbridled discretion to the licensing authority to determine whether a permit is required.

**Application Process for Savannah Permit Ordinance**

33. A person wishing to engage in a “parade” or “public assembly” must apply for a permit. *Id.*, Section 3-6004(n). The City Manager has “ten working days of receipt of an application” to review the application and “render a decision.” *Id.*, Section 3-6005(e).
34. Beyond the basic information (identification and details of event) common to most municipal permit applications, **the application seeks information about the applicant’s and others’ prior protest activities** “of a substantially similar nature.” *Id.*, Section 3-6004(a). Citizens have a constitutionally protected **right to protest anonymously**, and this requirement to unveil “similar” free expression activity is not supported by a substantial or compelling government interest and is an unconstitutional burden on free speech.

35. The Savannah Public Gathering Ordinance also requires the Applicant to submit an “**indemnification and hold harmless agreement ... in a form satisfactory to the City Attorney.**” *Id.*, Section 3-6004(c) (emphasis added). The indemnification requirement places **unbridled discretion** in the hands of the licensing authority to determine whether the indemnification is “satisfactory.”

**Savannah’s Standards for Denying/Revoking a Permit**

36. The licensing authority makes decisions about whether to grant, deny or revoke a permit “**in light of all contents and goals, intentions, and presumptions as set out in this ordinance.**” *Id.*, Section 3-6005(e) (emphasis added).

37. Beyond the reasons for denial or revocation set forth in the preceding paragraph, the Savannah Permit Ordinance sets forth **ten** other reasons that may independently or in “combination” be used by the licensing authority to deny or revoke a permit. *Id.*, Section 3-6005(g)-(q).

38. Certain of the ten grounds, set out below, are facially unconstitutional because they give **unbridled discretion** to the licensing authority and place unconstitutional burdens on protected speech including, in Section 3-6005(n)-(q):

(o) . . . “unduly restrict and/or congest (vehicular or pedestrian) [traffic]”

(n) . . . “unreasonable danger to the health or safety of participants in the event or other members of the public”

(p) . . . “unreasonable disturbance of the peace, ” “unreasonably burden lawful commerce, ” or “unreasonably intrude upon the privacy or property of citizens.”

39. The standards for denial of a permit also apply to revocation of a

permit for a protest already taking place. The City Manager may

“terminate a parade or public assembly at any time . . . should any

consideration or combination of considerations . . . become apparent” or if

law enforcement determines that the participants have “violate[d] . . . or

deviate[d] in [a] material fashion from the plan submitted.” *Id.*, Section 3-

6008.

40. The standards for denial or revocation of a permit, which under the terms of

the ordinance are to be considered both individually and collectively, give

**unbridled discretion** to the licensing authority.

41. The standards for denial or revocation of a permit, which under the terms of

the ordinance are to be considered both individually and collectively, place

**unconstitutional burdens on free speech** in a public forum.

42. The standards for denial or revocation of a permit, which under the terms of the ordinance are to be considered both individually and collectively, are a **prior restraint** on speech in a public forum.
43. The standards for denial or revocation of a permit, which under the terms of the ordinance are to be considered both individually and collectively, are not supported by a substantial or compelling government interest and are not sufficiently narrowly tailored to any such interest.

**SAVANNAH CITY REVENUE ORDINANCE  
AND RELATED REGULATIONS**

44. The City of Savannah also has a preexisting "City Revenue Ordinance" that governs the use of City facilities, including its public parks and squares. 2004 City Revenue Ordinance Art. R (hereinafter "Revenue Ordinance," attached as Exhibit C).
45. The Revenue Ordinance states that "Use of City parks and squares is governed by *Regulations, Policies, Procedures and Fees for Special Events in the City's Scenic Parks and Squares*. Exhibit C, Art. R, § 3(c). Those Special Event Regulations were last revised January 1, 2003. Exhibit D, Special Event Regulations at 1.
46. In addition to the Special Event Regulations, there is also a set of regulations governing "Banners for Special Events" (hereinafter "Banner Regulations,"

attached as Exhibit E), which appear to govern the Leisure Service Bureau's permitting of signs pursuant to the requirement in the Special Event Regulations. Exhibit D at 7. The Special Event Regulations and the Banner Regulations (together, "Regulations") therefore serve as official policies of Savannah with respect to the enforcement of the Revenue Ordinance.

**The Ordinance and Regulations Are Inconsistent and Ambiguous**

47. The Revenue Ordinance and Special Event Regulations are inconsistent, and therefore ambiguous. For instance, the Revenue Ordinance prescribes a fee for applicants who are not residents of Savannah, while the Special Event Regulations prescribe a fee for applicants who are not residents of Chatham County. Exhibit C at 48; Exhibit D at 4. Additionally, Rousakis Plaza is covered under the "Parks and Squares" section of the Revenue Ordinance, but is not covered by the Special Event Regulations. Exhibit C at 47; Exhibit D at 12-15.
48. Most importantly, the Revenue Ordinance states that a permit fee applies to a "user . . . wishing to reserve" (Exhibit C, Art. R § 3(c)(1) (emphasis added)) a park or square, implying that the fee applies only to exclusive, reserved use, while the Special Event Regulations state that they apply to users "desiring to reserve outdoor areas of facilities for non-exclusive use."

Exhibit D at 1 (emphasis added). It is therefore unclear whether the Revenue Ordinance and Special Event Regulations apply only if the user chooses to reserve a park for exclusive use, or whether compliance with the Ordinance and Regulations is required for any activity of any size (e.g. a single leafletter, or ten protesters) in a park, even if the user's intent is for the use to be non-exclusive.

49. The Revenue Ordinance states that it governs the reservations of parks for "special events" and the Special Event Regulations explicitly refer to "special events." (Exhibit C, Art. R § 3(c)(1); Exhibit D at 4. However, "special event" is not defined either in the Ordinance or in the Regulations. Therefore, to the extent that a reservation or permit is required for "special events," applicants have no way of knowing whether a planned activity is a "special event." In particular, because they predate the recently-passed Public Gathering Ordinance, neither the Revenue Ordinance nor the Special Event Regulations reference the Public Gathering Ordinance at all, and thus it is not clear whether permitted "public gatherings" under that ordinance constitute "special events."
50. The Special Event Regulations regarding "Reservations" state that a "maintenance deposit and user permit are required to confirm a reservation"

for a park, but the term “user permit” is ambiguous. Exhibit D at 2. In some sentences, it appears to refer to the application for the permit (“Please read all information provided before returning the user permit.”). *Id.* In other sentences, it appears to refer to the permit itself. (“As a condition for receiving a permit . . .”). *Id.* The last paragraph of this section states that “[u]ser application/permits are available from Leisure Services Bureau.” *Id.* As above, no reference is made to the Public Gathering Ordinance, but in view of that ordinance’s permit requirement, the Special Event Regulations gain an additional ambiguity as to whether a public gathering “permit” is a “user permit.” This ambiguity renders the entire provision ambiguous as to what is required before a reservation can be made.

51. The Special Event Regulations limit the parks to certain uses, Exhibit D at 1, as discussed in greater detail below, and the Banner Regulations restrict the appearance of signs, *see* Exhibit E, Banner Regulations at 1. Because of the ambiguities in the scope of the regulations described above, it is ambiguous whether these limitations and restrictions apply to all activities in all City parks (not merely those considered a “special event”), and if so, whether these Regulations would also apply to activities in Rousakis Plaza.

## The Ordinance and Regulations Are Content-Based

52. The “Regulations, Policies, Procedures and Fees for Special Events in the City’s Scenic Parks and Squares” permits only certain uses and activities in City Parks:

- “The display or exhibit of original works of arts and crafts”;
- “Performing arts events, when sponsored by nonprofit organizations, for the benefit of the nonprofit organizations”;
- “Weddings, catered receptions and banquets”; and
- “Festivals,” which are defined as “an event with the primary theme being a subject of a national, ethnic, artistic, biographical, or seasonal theme.”

Exhibit D, Special Event Regulations at 1.

53. The Special Event Regulations governing permissible uses of the park is **content-based**. Specifically, it permits festivals, but only if their primary theme is among the list of approved themes. In addition, certain communicative activity, such as a performing arts events and arts and crafts displays are permitted, but core political activity, such as protests, political advocacy, and leafleting, are not allowed.

54. Additionally, the Special Event Regulations have created vague standards for what constitutes a “festival,” giving **unbridled discretion** to the permitting authority to determine whether use of the park is permitted. *Id.*

**The Fee Requirements Are an Undue Burden on Expressive Activity**

55. The Revenue Ordinance requires “[a]ny user, except a nonprofit organization, wishing to reserve a park or square for a . . . special event . . .” to pay a minimum of \$150 “per event up to three hours.” Exhibit C, Art. R § 3(C)(1). After that three hours, the fee is then “**\$50 per hour with a maximum of \$700.00 per day.**” *Id.*; *see also* Special Event Regulations at 4.

56. While nonprofit organizations are exempted from permit fees, they are **not exempted from any other fees.** *See* Special Event Regulations at 5.

57. Forsyth Park, the only park with a capacity of more than 700 people, (Special Event Regulations, Appendix I, pp. 12-15), rents for a minimum of \$150 per event for three hours. *Id.* at 4. After three hours, the event costs \$50 per acre, up to a maximum of \$700 per acre per day. *Id.*

58. In addition to these permit fees, the Revenue Ordinance and Special Event Regulations also requires that “**[a]ny user desiring to conduct an event in a City park or square will pay a refundable maintenance deposit.**”

Exhibit C, Art. R § 3(C)(6); Exhibit D, Special Event Regulations at 5 (emphasis added). The security deposit for an event of 151 or more people will be assessed at “\$1.50 per person.” *Id.* Therefore, a one-day festival expecting 5000 persons to attend would cost \$7500, in addition to the \$700 per acre permit fee.

59. To confirm a reservation under the Revenue Ordinance and Special Event Regulations, a user must provide a “user permit” (or perhaps application) and a maintenance deposit. *Id.* at 2. The date “requested cannot be guaranteed until the [maintenance deposit] payment is received.” *Id.*

Therefore, the **permit fee and the maintenance deposit must be paid** before a reservation can even be made.

60. In addition, the Special Event Regulations also require a “Security Pre-Payment.” *Id.* at 4. This provision states that “**Savannah Police Department security must be provided** for all events held in city parks **at the expense of the user.**” *Id.* (emphasis in original). The minimum fee is \$72 per officer, per event. *Id.* If the event lasts more than four hours, an additional \$18.00 per hour, per officer is charged. *Id.* If more than four officers are required, a supervisor must be hired for \$24.00 per hour. *Id.* Therefore, assuming one officer for every 100 persons, and one supervisor

per 25 officers, a one-day (eight-hour) event expecting 5000 persons to attend would cost \$8160.

61. In addition to these fees, the Special Event Regulations require both an indemnity/hold harmless agreement and, for “all events with an expected attendance of 150 or more,” or “**when deemed necessary by the City of Savannah,**” proof of insurance is required within five days prior to the commencement of the event. Exhibit D, Special Event Regulations at 3 (emphasis added). Thus, the user must pay an **additional cost** in the form of insurance premiums in order to hold an event, in addition to the fees described above.
62. The Special Event Regulations also require that the applicant “be responsible for providing barricades or other crowd control devices, portable restroom facilities, if necessary, disposal of garbage and trash or other necessary services or facilities for the benefit of the public or adjacent property as may be determined to be needed by the City, with the applicant to pay any and all costs pertaining thereto.” *Id.* at 5. Thus, the Regulations impose a **further cost** on the applicant, in addition to the fees described above.

63. Therefore, a for-profit group wishing to conduct a one-day festival would have to pay a minimum of \$16,360 in fees in order to reserve a park for an event, in addition to the other expenses of holding the event. Even a nonprofit group, which is exempt from the permit fees, would have to pay \$15,660 in order to obtain a reservation. These fees, separately or in combination are **far more than the nominal amounts** permitted under the First Amendment, and constitute an **undue burden** on free expression.

**The Revenue Ordinance and Regulations Allow Excessive Discretion  
and Are Applied Arbitrarily**

64. The Special Event Regulations allow **unbridled discretion** in the determination of how many officers and supervisors are required for a given event, and when insurance will be required, among other things.

65. Moreover, in practice, the fees prescribed in the Special Event Regulations are modified arbitrarily at the discretion of the permitting officer.

66. For instance, for the March of Dimes WalkAmerica event, for which 1000 persons were expected, and for which the Washington Avenue Lawn area in Daffin Park were reserved, only a \$500 maintenance deposit was required (instead of the \$1500 prescribed in the regulations), and no security fee appears to have been required. (See Exhibit F).

67. For the Savannah College of Art & Design Sidewalk Arts Festival in Forsyth Park, for which expected attendance was 10,000, the \$700-per-day permit fee was charged, and SCAD was expected to pay the cost of security, but only a \$1000 maintenance deposit was required instead of the \$15,000 deposit prescribed by the regulations. (*See Exhibit G*).
68. Finally, for the Telfair Museum of Art's Annual Ball in Telfair Square, for which 400 persons were expected, the \$700 permit fee was waived in exchange for free admission to the museum during 2004, but the museum was required to provide security, a tent deposit, and the prescribed maintenance deposit of \$600. (*See Exhibit H*).
69. The discretion granted in the Special Event Regulations, and these examples of the application of the Special Event Regulations, demonstrate that the fee requirements can easily be **manipulated** to favor or disfavor certain speakers. Such discretion renders the Ordinance and Special Event Regulations unconstitutional.

**The Indemnification and Security Fee Requirements Exceed the City's Legitimate Interests and Invite Content-Based Decisionmaking**

70. All applicants must agree to indemnify the City against "all claims of any kind." Exhibit D, Special Event Regulations at 3. This provision requires the user to indemnify the City for claims regardless of whether the user, the

user's agents, or persons otherwise in the control of the user caused the damage or injury. This provision therefore exceeds the legitimate interests of the City, and is thus not narrowly tailored to those interests. It also unconstitutionally **shifts the risk of injury caused by hecklers** from the City to the user.

71. The need for insurance is left to the **unbridled discretion** of the permitting official. *See id.* at 3. Moreover, this discretion invites unconstitutional **content-based evaluation of risk of harm** (e.g., from hecklers) in order to determine whether insurance should be required even if an event's anticipated attendance is less than 150 persons. Additionally, the required insurance may be **cost-prohibitive or unavailable** for groups with more controversial views, and is therefore unconstitutional.
72. The security fee is also left up to the **unbridled discretion** of the Police Department. *See id.* at 4. Requiring persons engaged in free expression to pay for the cost of security, as determined by the judgment of government officials, is unconstitutional. Not only does it grant unconstitutionally **unbridled discretion** to the officials, it invites **decisions based on the content of the anticipated speech** in order to determine the need for

security, and unconstitutionally **shifts the burden** of maintaining public order to the applicant.

73. When making an event reservation request for “consecutive days of park usage, [the] **sponsor must submit a detailed explanation of [the] benefit to the community.**” *Id.* at 2 (emphasis added). This provision is unconstitutional because it places **unbridled discretion** in the person granting the reservation to determine whether the event benefits the community.

**The Ordinance and Regulations Fail to Provide Appropriate Time Frames For Permitting Applications, Decisions and Appeals**

74. Requests for reservations “must be submitted in writing **at least four weeks prior** to [the] event date.” *Id.* at 2 (emphasis added). Also, an “on-site meeting to review the event shall be held at least two weeks prior to the date of the event.” *Id.* And, the Savannah Police Department must contact the Leisure Services regarding security **one week** prior to the date of the event. *Id.* at 4. There is no exception for free speech activities. To the extent that the Special Event Regulations require a “permit” and/or “reservation” for all planned activity, impermissibly **bar all spontaneous free speech activities in city parks.**

75. The Special Event Regulations **fail to place any time restrictions on the City's time to decide whether or not to grant a permit.** A failure to impose such time limits is unconstitutional because it places **unbridled discretion** in the hands of the City, and allows it to effectively deny a permit by failing to grant it in time for the event.

#### Music Restrictions

76. The Special Event Regulations state that “[i]n residential squares,” the use of “any type of music must be pre-approved by the Leisure Services Bureau.” *Id.* at 8. This provision places unbridled discretion in the hands of the Leisure Services Bureau to approve or disapprove of any and all music.

#### Sign Restrictions

77. “All signs, including banners, must be approved by the Leisure Service Bureau in advance.” *Id.* at 7. A request to use a sign must be submitted in writing and must include a “diagram of your plans.” *Id.* “. . . **Banners, etc. not in compliance with policies will be removed immediately by security.**” Exhibit E at IV(E) (emphasis added).

78. Although the Banner Regulations only explicitly apply to “banners,” either they also implicitly apply to all signs, or the Special Event Regulations place **unbridled discretion** in the hands of the Leisure Services Bureau to approve

signs other than banners, and to determine what signs are “banners” and therefore subject to the Banner Regulations.

79. Banners must have a “[b]ackground color **complimentary** to surrounding and features.” *Id.* at I(B)(1) (emphasis added). This requirement is unconstitutionally vague and places **unbridled discretion** in the hands of City officials to determine what is “complimentary.”
80. A banner may “display a company logo; however no copies of product or mascots are permitted.” *Id.* at I(D). This restriction on commercial speech serves no compelling or substantial government interest; nor is it **narrowly tailored** to meet any such government interest.
81. Approval for a banner must be submitted “**30 days** prior to hanging.” *Id.* at IV(B) (emphasis added). The submission “should include: ‘to scale’ renderings of the banner, locations for hanging, dates for hanging and removing.” *Id.* at IV(C). This requirement is overly burdensome, and is not narrowly tailored to serve a compelling or substantial government interest.
82. Like the Revenue Ordinance and Special Event Regulations, the Banner Regulations unconstitutionally do not provide any **time limits** for approval of banners or signs, nor does it provide for an appeal process.

### Street Performer Regulations

83. A street performer or street entertainer, “who plays a musical instrument, paints or draws portraits or caricatures, performs acts of skill, or otherwise performs in the public ways of the City, whether for pay, **tips, or for free**” must obtain a permit. Exhibit D, Special Event Regulations at 10 (emphasis added). He or she may not “perform in public ways of the City **until or unless** such entertainers/performer[s] **holds a City permit.**” *Id.* (emphasis added). “The permit fee will cost **\$25.00** per year.” *Id.* (emphasis added).
84. Even with a permit, the performer is **prohibited from using amplified sound** and is required to use only “professionally generated” signs that are “no greater than eight 1/2 inches by eleven inches in size.” *Id.* at 10-11. Donations may be requested using the “professionally generated” sign, but “**no entertainer/performer may solicit payment** for entertainment or services rendered, either **orally or by gesture.**” *Id.* at 11 (emphasis added). These restrictions are burdensome and are not narrowly tailored to serve a compelling or important government interest.
85. Performers/entertainers are limited to four hours of performing each day, even where another performer/entertainer does not seek to use the space. *Id.*

at 10. These restrictions are burdensome and are not narrowly tailored to serve a compelling or important government interest.

86. A violation must be corrected “immediately after one **warning**” from the City. *Id.* at 11 (emphasis added). Otherwise, the City officials who gave the warning “have the authority to confiscate the entertainer/performer’s permit, to cause the entertainer/performer to cease all entertainment activities, and to recommend to the Leisure Service Bureau that the permit be suspended or revoked.” *Id.* The Leisure Service Bureau Program Coordinator will make the decision to revoke or suspend the permit, which can be appealed to the Leisure Services Bureau Director.

### **CLAIMS FOR RELIEF**

#### **UNITED STATES CONSTITUTION**

87. The allegations set forth in the foregoing paragraphs are incorporated herein by reference.
88. Plaintiffs enjoy the First and Fourteenth Amendment rights to assemble and engage in free speech in the areas for which permits are required under the Defendants’ Public Gathering Ordinances, Revenue Ordinance, and Regulations.

89. Defendants' Public Gathering Ordinances, Revenue Ordinance, and Regulations apply to public forums.
90. Defendants' Public Gathering Ordinances, Revenue Ordinance, and Regulations are prior restraints on speech.
91. Defendants' Public Gathering Ordinances, Revenue Ordinance, and Regulations are content-based, in whole or in part.
92. Content-based requirements for free expression are presumptively unconstitutional, subject to strict scrutiny and may only be justified if narrowly tailored to a compelling government interest. Content-neutral time, place and manner regulations are subject to intermediate scrutiny and must leave open ample alternative avenues of communication, be supported by a substantial government interest, and not restrict substantially more speech than is necessitated by that interest.
93. Although Defendants could have required permits for large groups only, Defendants' Public Gathering Ordinances apply to free speech activities of an individual, which is not supported by compelling or substantial government interests.

94. Defendants' Public Gathering Ordinances, Revenue Ordinance, and Regulations arbitrarily restrict certain expressive activities without a rational, permissible basis for doing so.
95. Defendants' Public Gathering Ordinances, Revenue Ordinance, and Regulations contain grounds for denial and revocation that are not supported by compelling or substantial government interests.
96. Defendants' Public Gathering Ordinances, Revenue Ordinance, and Regulations are not narrowly tailored to their asserted interests.
97. Defendants' Public Gathering Ordinances, Revenue Ordinance, and Regulations are vague and overbroad.
98. Defendants' Public Gathering Ordinances, Revenue Ordinance, and Regulations give unbridled discretion to the licensing authority to approve or reject applications and deny or revoke permits.
99. Defendants' Public Gathering Ordinances, Revenue Ordinance, and Regulations are not valid time, place, or manner regulations.
100. On their face, Defendants' Public Gathering Ordinances, Revenue Ordinance, and Regulations are unconstitutional under the First and Fourteenth Amendments of the United States Constitution.

## **GEORGIA CONSTITUTION**

98. The allegations set forth in the preceding paragraphs are incorporated herein by reference.
100. Article I, section I, paragraph V of the Constitution of the State of Georgia states that “[n]o law shall be passed to curtail or restrain the freedom of speech or of the press.”
101. The Georgia Constitution has been interpreted to “absolutely interdict” prior restraints on speech and thus is broader than the United States Constitution.
102. Defendants’ Public Gathering Ordinances, Revenue Ordinance, and Regulations on their face violate the free speech clause of the Georgia Constitution and are not the “least intrusive” measures under the Georgia Constitution.
103. Defendants’ Public Gathering Ordinances, Revenue Ordinance, and Regulations, on their face, are overbroad, unduly vague, and delegate unbridled discretion to Defendants in violation of the due process protections of Georgia Constitution, Article I, section I, paragraph I.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays that this Court:

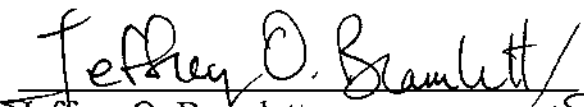
1. Assume jurisdiction over this action.

2. Declare Defendants' Public Gathering Ordinances, Revenue Ordinance, and Regulations, unconstitutional on their face.
3. Enter a preliminary and permanent injunction against Defendants' Public Gathering Ordinances, Revenue Ordinance, and Regulations, on their face, prohibiting Defendants, their successors, and assigns, and all persons acting in concert therewith and all persons subject to Federal Rule of Civil Procedure 65's scope from enforcing Defendants' permit ordinances and regulations, on their face.
4. Award Plaintiffs reasonable attorneys' fees and costs as allowed by law.
5. Order such additional relief as the Court may deem just and proper.

DATED this the 26th day of May, 2004.

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