

B. Factual & Legal Background

The action arises from Defendant's conditioning its "permission" for Plaintiffs' exercise of their First Amendment rights to engage in free speech and assembly at Pioneer Park in Dallas on Plaintiffs' purchase of "a certificate of general liability insurance in the minimum amount of \$1,000,000.00 showing the City of Dallas as certificate holder and the City of Dallas, its officers, employees and appointed representatives as additionally insured."

In order to "encourage and give high priority to established and special events that have a record of significantly benefiting the city and to special events that promote commercial film development in the city" the City of Dallas has passed a Special Events ordinance. A Special Event is defined within the ordinance as:

...a temporary event or gathering, including a special event parade, using either private or public property, in which the estimated number of participants and spectators exceeds 75 during any day of the event *and* that involves one or more of the following activities, except when the activity is for construction or housemoving purposes only:

- (A) closing of a public street;
- (B) blocking or restriction of public property;
- (C) sale of merchandise, food, or beverages on public property outside the central business district, or on private property where otherwise prohibited by ordinance;
- (D) erection of a tent on public property, or on private property where otherwise prohibited by ordinance;¹
- (E) installation of a stage, bandshell, trailer, van, portable building, grandstand, or bleachers on public property, or on private property where otherwise prohibited by ordinance;
- (F) placement of portable toilets on public property, or on private property where otherwise prohibited by ordinance; or
- (G) placement of temporary no-parking, directional, over-size, or identification signs or banners in or over a public right-of-way, or on private property where otherwise prohibited by ordinance.

Sec. 42A-2 "Definitions" (City of Dallas, Texas, Ord. Nos. 18702; 19869; 21934) Emphasis added.

¹ The term "tent" is not defined in the ordinance, however the permitting application requires a "tent permit" be required for a "tent" in excess of 399 sq. ft. The Dallas Fire Rescue Department's "Tent Application Form" applies only to "tents" in excess of 399 sq. ft. Attached hereto as Exhibit ____ to the Appendix.

In order to convene a Special Event, pursuant to the ordinance, an applicant is expected to seek a special event permit constituting written approval to hold a special event granted by the special event manager.

Notwithstanding the fact the assembly of political protesters known as Occupy Dallas does not meet the criteria required to condition its activities on its application for and receipt of a special event permit, representatives of the City of Dallas informed certain individuals involved in Occupy Dallas that such a permit would be required for their continued exercise of their First Amendment rights.

Accordingly, based on the information and instruction given them by representatives of the City, an application was made to the City for issuance of a special event permit for Occupy Dallas on Monday, October 10, 2011. The signatory on the application was George Glynn Wilcox, whose affidavit is attached hereto as **Exhibit A** to the Appendix.

Importantly, on the application Mr. Wilcox made and submitted, titled Special Event & Street Pole Banner Permit Application, in the section where the applicant is asked to estimate how many people do you expect to attend your event, Mr. Wilcox entered the characters "u/k," meaning unknown.

Unilaterally, the City appears to have construed this as a representation on Mr. Wilcox's part that he in fact estimated the number of attendees to exceed 5,000.

This construction on the part of the City is apparent by reference to the "Special Permit" the City issued Mr. Wilcox on Tuesday, October 11, 2011, wherein it asserts the Special Event Permit: "...will be null and void...if...[the applicant fails to]...[p]rovide the Office of Special Events with a certificate of general liability insurance in the minimum amount of \$1,000,000.00 showing the City of Dallas as certificate holder and the City of Dallas, its officers, employees and appointed representatives as additionally insured." The "Special Permit" goes on: "The insurance must be

provided to the City of Dallas Office of Special Events by Tuesday, October 11, 2011 by 5:00 P or this permit is subject to being revoked." The Special Permit is attached hereto as **Exhibit B** to the Appendix.

The City's authority for this alleged requirement comes from language in the City ordinance at Sec. 42A-10, "Insurance":

(a) An applicant for a permit to hold a special event in which the estimated number of participants and spectators exceeds 2,500 for any day of the event shall procure and keep in full force and effect for the duration of the event insurance written by an insurance company approved by the State of Texas and acceptable to the city and issued in the standard form approved by the Texas Department of Insurance. All provisions of each policy must be acceptable to the city. Each policy must name the city and its officers and employees as additional insureds. The coverage provisions of each policy must provide coverage for any loss or damage that may arise to any person or property by reason of the conduct of the special event by the applicant.

(b) Insurance is required in the following types and amounts:

(1) Commercial general liability insurance must be provided with combined single limits of liability for bodily injury and property damage of not less than:

(A) \$500,000 for each occurrence, for an estimated daily number of participants and spectators of 2,501 to 4,999; or

(B) \$1,000,000 for each occurrence, for an estimated daily number of participants and spectators of 5,000 or more.

(2) If a special event includes vehicles, aircraft, or other equipment, devices, or activities that are excluded from coverage in the commercial general liability insurance policy required in Paragraph (1) of this subsection, then separate additional liability insurance coverage for the applicable exclusion must be provided with combined single limits of liability for bodily injury and property damage of not less than:

(A) \$500,000 for each occurrence, for an estimated daily number of participants and spectators of 2,501 to 4,999; or

(B) \$1,000,000 for each occurrence, for an estimated daily number of participants and spectators of 5,000 or more.

(3) If any alcoholic beverage is sold, served, or otherwise made available at the special event, then separate additional liquor liability insurance must be

provided by the alcoholic beverage license holder in an amount of not less than \$1,000,000 for each claim.

(4) If any fireworks or other special effects are displayed at the special event, then separate additional general liability insurance must be provided by the pyrotechnics company in an amount of not less than \$3,000,000 for each claim.

(5) If security guards (other than Dallas police officers or city staff) are used at the special event, then separate additional security guard liability insurance must be provided by the security guard company in an amount of not less than \$1,000,000 for each claim.

(6) If emergency response or first aid stations (other than stations staffed by only Dallas fire-rescue officers or city staff) are provided at the special event, then separate additional medical liability insurance must be provided by the applicant in an amount of not less than \$1,000,000 for each claim, and if ambulance service (other than service provided by Dallas fire-rescue officers and vehicles) is provided, then separate additional automobile liability insurance must be provided by the ambulance provider in an amount of not less than \$1,000,000 combined single limit for each claim.

(7) If amusement rides are provided at the special event, proof of separate additional general liability insurance meeting the state liability and coverage requirements for each particular ride must be provided by the applicant, along with a current certificate of inspection for each ride.

(8) If animals are part of the special event, then separate additional general liability insurance covering any bodily injury and property damage caused by animals must be provided by the applicant in an amount of not less than \$500,000 for each claim.

(9) If the special event is conducted at a city-owned facility that is not covered by insurance requirements established by a city lease and use agreement, then separate additional general liability insurance must be provided by the applicant in an amount of not less than \$500,000 for each claim.

(c) In addition to the insurance requirements of Subsection (b) of this section, the special event manager may require additional insurance for a special event if such additional insurance is recommended by the city's risk manager as being necessary for the protection of the city or the public health, safety, and welfare.

(d) If a facility or other property owned or managed by the city is subject to both the insurance requirements of this chapter and insurance requirements established by another city ordinance, an official city action, a city lease or use agreement, or other applicable law, then the insurance requirements with

the greater limits and coverages must be met to conduct the special event at the facility or property.

(e) An original certificate of insurance completed by an authorized agent of the insurance company and evidencing each insurance coverage required under this section must be delivered to the special event manager at least 10 days before the special event begins.

Sec. 42A-10 (City of Dallas, Texas, Ord. Nos. 21934; 26136; 28126) Emphasis added.

In light of the foregoing, because the Occupy Dallas “event” does not involve one or more of the activities listed at Sec. 42A-2 of the City’s ordinances, the Occupy Dallas “event” is not a “Special Event.”

Moreover, because Mr. Wilcox, the applicant for the “Special Permit” nowhere indicated in his application there would be more than 5,000 persons in attendance, it is not subject to the insurance requirements identified at Sec. 42A-10 (a) and (b)(1)(B) of the City’s ordinances.

Indeed, the insurance requirement articulated in the City’s “Special Permit” is at once a misconstruction of the City’s ordinance requiring insurance for Special Events, and the consequence of its application, in the event the “required” insurance is not obtained, will be an abridgment of complainants First Amendment-protected freedoms of speech and assembly.

In accord with First Amendment jurisprudence in this circuit, ordinances requiring a permit for demonstrations by a handful of people are not narrowly tailored to serve a significant government interest. *Knowles v. City of Waco, Texas* 462 F3d 430 (5th Cir. 2006). Hence, application of the City’s Special Event ordinance in this context is unconstitutional. Indeed, the Special Event & Street Pole Banner Permit Application requires identification of an “organization.” Occupy Dallas is not an organization. It is best characterized as a slogan of protest. Furthermore, the Special Event & Street Pole Banner Permit Application requires that it be submitted to the City’s Office of Special Events not less than 45 days before the event. In the context of activity protected by the First Amendment, this requirement is not narrowly tailored to serve a significant governmental interest.

C. Argument & Authorities

This Court must weigh four factors to determine whether a preliminary injunction should be issued:

- (1) the likelihood that the moving party will succeed on the merits;
- (2) the extent to which the moving party will suffer irreparable harm without injunctive relief;
- (3) whether the threatened injury outweighs any damage the issuance of the injunction might cause defendants, and
- (4) whether the injunction will not disserve the public interest.

Sugar Busters LLC v. Brennan, 177 F.3d 258 (5th Cir. 1999).

The balance of factors in this First Amendment case clearly weighs in favor of granting the requested injunction.

I. PLAINTIFFS ARE LIKELY TO PREVAIL ON THE MERITS OF THEIR FIRST AMENDMENT CLAIM

A. Defendants Bear the Burden of Proof and Persuasion in this First Amendment Case

Unlike in most legal disputes, in First Amendment cases Defendants carry the burden of proof and persuasion. *Horton v. City of Houston*, 179 F.3d 188 (5th Cir. 1999). In other words, once Plaintiffs have shown a restraint on free expression, the burden shifts to the government agency to both articulate the reasons for and justify the restraint under the relevant First Amendment standard. In this case the court should apply intermediate scrutiny. Under that standard the Defendants cannot satisfy their burden. *Fantasy Ranch, Inc. v. City of Arlington* 459 F.3d 546 (5th Cir. 2006).

B. The Defendants' Requirement Plaintiffs Purchase Insurance Cannot Be Justified under First Amendment Standards

Plaintiffs in this case seek to engage in quintessential First-Amendment-protected activities. *Shuttlesworth v. City of Birmingham, Ala.*, 394 U.S. 147, 152 (1969); *Hague v. C.I.O.*, 307 U.S. 496, 515-16 (1939). The locus of the protest is key. Streets and parks are traditional public forums that the First

Amendment holds in trust for public use, especially for “purposes of assembly, communicating thoughts between citizens, and discussing public questions.” *Hague*, 307 U.S. at 515. Public streets, parks, and sidewalks have long been recognized as quintessential, “traditional public forum[s],” where First Amendment expressive activities are afforded the strongest protection. “Such use of the streets and public places has, from ancient times, been a part of the privileges, immunities, rights, and liberties of citizens.” *Hague*, 307 U.S. at 515–16. In “public places historically associated with the free exercise of expressive activities, such as streets, sidewalks, and parks, the government’s ability to permissibly restrict expressive conduct is extremely limited. . . .” *United States v. Grace*, 461 U.S. 171, 177 (1983).

The government, of course, may impose reasonable restrictions on the time, place or manner of speech in a traditional public forum. But the Defendants must show that the restrictions “are justified without reference to the content of the speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.” *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989). Here, the government fails to meet at least one of the prongs of the *Ward* test. In that the City has not and cannot demonstrate that in the context of First Amendment analysis, the Special Event permitting process requirements concerning the purchase of insurance are not narrowly tailored to serve a significant government interest.

II. PLAINTIFFS WILL SUFFER IRREPARABLE HARM IF THE COURT DECLINES TO ISSUE THE INJUNCTION

The Supreme Court has noted, “The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373–74 (1976) (emphasis added); *see also Swartzwelder v. McNeilly*, 297 F.3d 228, 241-42 (3d Cir. 2002) (restriction on First Amendment rights—in this case police officer’s court testimony—constitutes

irreparable harm); American Civil Liberties Union, 217 F.3d 162, 180 (generally in First Amendment challenges plaintiffs who meet the merits prong of the test for a preliminary injunction “will almost certainly meet the second, since irreparable injury normally arises out of the deprivation of speech rights.”) (citation omitted); *Abu-Jamal v. Price*, 154 F.3d 128, 135–36 (3d Cir. 1998) (same); 11A Charles Alan Wright, Arthur R. Miller & Mary Kay Case Kane, Federal Practice and Procedure § 2948.1 (2d ed.1995) (“When an alleged constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.”).

In this case, absent a preliminary injunction the Plaintiffs will be irreparably and irretrievably precluded from exercising their First Amendment rights.

III. DEFENDANTS WILL SUFFER NO IRREPARABLE HARM IF THIS INJUNCTION ISSUES

The requested order will not prejudice the Defendants’ ability to maintain public safety or security.

IV. GRANTING THE INJUNCTION WILL SERVE THE PUBLIC INTEREST

The free exchange of ideas in Dallas is in the public interest. “[T]ime out of mind, public streets and sidewalks have been used for public assembly and debate, the hallmarks of a traditional public forum.” *Frisby v. Schultz*, 487 U.S. 474, 480 (1988). Enjoining the Defendant from unduly and unfairly burdening political activities in Dallas’ public forums is in the public interest.

Conclusion

WHEREFORE PREMISES CONSIDERED, Plaintiffs respectfully request this court issue an order enjoining the City of Dallas from acting to enforce its permitting requirements against Plaintiffs, and for such other relief as they may show themselves justly entitled to at law or in equity.

[SIGNATURE PAGE & CERTIFICATE OF SERVICE FOLLOWS]

Respectfully submitted,

By: 

Jonathan F. Winocour

State Bar No. 24037730

David P. Ray III

State Bar No. 24027766

WINOCOUR | RAY

9400 N. Central Expressway, Suite 1204

Dallas, Texas 75231

(214) 575-6060 Telephone

(214) 575-6220 Facsimile

jwinocour@winocour-ray.com

dray@winocour-ray.com

By: 

Corinna Chandler

Texas Bar No. 24061272

Chandler Martinez, L.L.P.

6611 Hillcrest Avenue, Box # 542

Dallas, Texas 75205

(214) 758-0354 Telephone

(214) 758-0362 Facsimile

chandler@chandlermartinez.com

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document and the accompanying appendix were served on the City Attorney for the City of Dallas via hand delivery on this Wednesday, October 12, 2011.

By: 

Jonathan F. Winocour

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Jennifer Florence
Dawson, Justin Howell,
Adam Chesley, et al.,
Plaintiffs,

v.

City of Dallas, Texas
Defendant.

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CAUSE NO.

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Jennifer Florence
Dawson, Justin Howell,
Adam Chesley, et al.,
Plaintiffs,

v.

City of Dallas, Texas
Defendant.

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CAUSE NO.

EXHIBIT B



OFFICE OF SPECIAL EVENTS
City of Dallas

650 S. Griffin Street, Dallas, Texas 75202
 Phone: 214/939-2701 Fax: 214/939-2709
www.dallaspecialevents.com

SPECIAL EVENT & STREET POLE BANNER PERMIT APPLICATION

SECTION 1: FEES

Special Event Permit		Late Application	\$40.00	Street Pole Banners	
0-200 people	\$30.00			For-profit	\$20/Per Pole
201-400 people	\$50.00	Application Changes	\$40.00 each	Non-profit	\$10/Per Pole
401-800 people	\$75.00			Deposit	\$500.00
801-1000	\$100.00				
1001-20,000 people	\$250.00				
Over 20,000 people	\$500.00				

All fees must be in the form of Money Order, Check, or Debit/Credit Card to the City of Dallas Office of Special Events and accompany this form at the time of submission. Application must be filed **not less than 45 days** before the event.

SECTION 2: APPLICANT INFORMATION

Occupy Dallas	George Glynn Wilcox	2120 Heather Glen Dr Dallas TX 75232	
Organization	Contact Person	Mailing Address	City, State, Zip
972-522-8770	972-522-8770	georgeglynnwilcox@gmail.com	
Daytime Phone	After Hours Phone	Fax	Email Address:
Organization Type:	<input type="checkbox"/> Non-Profit <input type="checkbox"/> For-Profit <input type="checkbox"/> Government <input type="checkbox"/> Corporation <input checked="" type="checkbox"/> Other <u>Protest group</u>		
Glynn Wilcox	972-522-8770	972-522-8770	georgeglynnwilcox@gmail.com
Emergency Contact	Daytime Phone	After Hours Phone:	Email Address:

Note: Changes to original application will ONLY be accepted from either applicant or emergency contact in writing. No changes to applications will be made within 14 days of scheduled event date.

SECTION 3: EVENT DESCRIPTION

Event Title and Type:

<input type="checkbox"/> Banner Poles	<input type="checkbox"/> Carnival	<input type="checkbox"/> Ceremony	<input type="checkbox"/> Circus	<input type="checkbox"/> Concert	<input type="checkbox"/> Festival
<input type="checkbox"/> Filming	<input type="checkbox"/> Parade	<input type="checkbox"/> Party	<input type="checkbox"/> Picnic	<input checked="" type="checkbox"/> Political Rally	<input type="checkbox"/> Religious procession
<input type="checkbox"/> Run/Walk	<input type="checkbox"/> Tournament	<input type="checkbox"/> Other			

Event Description: General protest concerning socio-economic equality

How many people do you expect to attend your event?

Event Day	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
# of Participants	U/K	U/K	U/K	U/K	U/K	U/K	U/K
# of Spectators	U/K	U/K	U/K	U/K	U/K	U/K	U/K
Daily Event Total	U/K	U/K	U/K	U/K	U/K	U/K	U/K

SECTION 4: EVENT SCHEDULE

Event Set-Up Date: 10-10-2011
 Event Set-Up Time: 12:00 am
 Event Start Date: 12:00 am

Event End Date: U/K Indefinite
 Event Tear Down Time: U/K indefinite
 Event Tear Down Date: U/K Indefinite

For each day of the week on which the event will be held, indicate the start and stop times below:

Event Day	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Event Start Time	U/K indefinite	U/K indefinite	U/K indefinite	U/K indefinite	U/K indefinite	U/K indefinite	U/K indefinite
Event Stop Time	U/K indefinite	U/K indefinite	U/K indefinite	U/K indefinite	U/K indefinite	U/K indefinite	U/K indefinite

Admission/Registration Fee: Yes Ticket Prices: \$ N/A No
 Charitable Benefit: Yes Beneficiary/Organization, Contact Name, Address, Phone:
 #1 N/A
 #2 _____

SECTION 5: EVENT LOCATION, LAYOUT & PARKING PLAN

_____ City Hall Plaza _____ City Hall Lobby _____ Pioneer Plaza Other
 Event Address: _____

List street(s) affected by the event and proposed closures. For parades and runs, include start/finish lines and route:

SECTION 6: EQUIPMENT (CITY HALL USE ONLY)

Chairs # U/K 8' Tables # U/K Trash Cans # U/K 6' Round Tables # U/K
 Podium w/Mic _____ Podium w/o Mic _____ Speaker Stand _____ Registration Table _____
 Risers # _____ (4'x8' sections) 6' High _____ 8" High _____ Parking Services _____ EBS Officers # _____

SECTION 7: STREET POLE BANNERS

List all applicable street locations and specific block numbers:
 Number of Street Poles: N/A Install Date: N/A Remove Date: N/A
 Street Pole Numbers (required): N/A

*Banner permits will not be processed without street pole numbers and specific applicable street locations. Please attach additional documentation if necessary

SECTION 8: EVENT SPONSOR INFORMATION

List event sponsor(s) with **EXCLUSIVE SALE** and/or **ADVERTISING AGREEMENT(S)**:

Company	Brand

SECTION 9: OTHER PERMITS & FEES

If any of the following components will be part of your event, please check the appropriate boxes. In so doing, you may be required to obtain additional permits or incur additional fees:

- | | |
|--|---|
| <input type="checkbox"/> * Alcohol (See below) | Contact TABC: (214) 678-4008 |
| <input type="checkbox"/> City Hall Plaza | Contact City Hall Coordinator: (214) 939-2701 |
| <input type="checkbox"/> Fireworks | Contact Dallas Fire Rescue: (214) 670-7014 |
| <input type="checkbox"/> Food, Beverage and/or Merchandise Sales | Contact Environmental & Health Services: (214) 670-8083 |
| <input type="checkbox"/> Hooded Parking Meters | Contact City of Dallas Parking Services: (214) 754-4784 |
| <input type="checkbox"/> Liquid Propane Gas | Contact Dallas Fire Department: (214) 670-4319 |
| <input type="checkbox"/> Park Property | Contact Park Department: (214) 670-8890 |
| <input type="checkbox"/> Police Officers | Contact Dallas Police Dept. /Extra Job Unit: (214) 671-4460 |
| <input type="checkbox"/> **Tent(s) (See below if 399 sq. feet or over) | Contact Dallas Fire Rescue: (214) 670-4319 |
| <input type="checkbox"/> Street Pole Banners | Contact Banner Permit Coordinator: (214) 939-2701 |
| | Contact Oncor Street Pole Coordinator: 214-486-2637 |

Amount of Tents _____ Tent Sizes _____
 Amount of Stages _____ Stage Sizes _____

- | | | | | |
|------------------------------------|--------------------------------------|---|--|--|
| <input type="checkbox"/> Animals | <input type="checkbox"/> Electricity | <input type="checkbox"/> Portable Restrooms | <input type="checkbox"/> Stages | <input type="checkbox"/> Water Hydrant |
| <input type="checkbox"/> Bleachers | <input type="checkbox"/> Fencing | <input type="checkbox"/> Special Parking | <input type="checkbox"/> Traffic Cones | |

***If alcohol is sold at the event, the applicant is required to obtain a temporary alcohol permit from TABC located at 8828 Stemmons Freeway, Suite 330, Dallas, Texas 75247, (214) 678-4008.**

****Obtaining a Tent Permit Through City of Dallas:**

- (1) Complete a Tent Permit Application Form (obtain from Dallas Fire Rescue)
- (2) Prepare 3 copies of a drawn-to-scale site plan showing location of proposed tent(s) and location of adjacent structures, and setbacks from adjacent property lines and distance from tent(s), including guide wires and stakes to all structures
- (3) Submit 3 copies of the certificate of flame resistance for tent materials
- (4) Submit 3 copies of the approving petition, if required
- (5) Show copy of Special Events Permit if the tent permit is in conjunction with a special event
- (6) Provide written authorization from Park & Recreation Dept. if tent is to be erected on City park property

SECTION 10: ACKNOWLEDGEMENT / SIGNATURE

By signing this document, I certify that the information provided above is correct and I acknowledge having read and understood the information contained in this application and in the Important Information Sheet (attached). I agree to conduct my special event in compliance with all applicable codes, ordinances, laws and the conditions contained in the special event permit.

Applicant's Signature: _____ Date: _____

APPLICATIONS WITH MISSING INFORMATION WILL NOT BE PROCESSED.

For Official Use Only:

Date Received: _____	Check #: _____	Inter-Office Date Distr: _____
Event Number: _____		Response Date: _____

The following **MUST BE INCLUDED** with the application at time of submission. Incomplete applications will not be processed.
 ✓ Permit Fee ✓ Certificate(s) of Insurance ✓ Event Layout Map ✓ Event Brochure

IMPORTANT INFORMATION

PLEASE READ BEFORE SUBMITTING APPLICATION

CITY-LICENSED VENDORS

The City of Dallas authorizes the sale of food, beverages, goods or services at or within a specific location or area in the city to a limited number of vendor applicants. The Office of Special Events will work with the applicant to notify each city-licensed vendor lawfully operating at or within a location or area in which your special event will be conducted with basic event information and any special requirements that must be followed to operate at the special event, including: (1) The date, hours, location and event layout; (2) specific locations from which the vendor is prohibited from operating (please indicate locations on event layout map) (3) food, beverage, or product brand sponsors; and, (4) price categories and payment procedures for the sale of food, beverage, merchandise or other products.

PUBLIC NOTIFICATION

If the estimated number of participants and spectators exceed 500 during any day of the special event, the applicant shall, at least 30 days before the special event begins, deliver written notice to all owners or occupants of real property abutting the boundaries of the area in which the special event will be conducted, including all owners or occupants of real property abutting the route of a progressive event such as a special event parade or run/walk event. The notice must include the following information: (1) event date, time and location; (2) an application for a special event permit has been filed; (3) interested persons may contact the Office of Special Events at 650 S. Griffin Street, Dallas, Texas 75202, (214) 939-2701.

INSURANCE

If the estimated number of participants and spectators exceeds 2,500 during any day of the special event, the applicant shall procure and keep in full force and effect for the duration of the event insurance written by an insurance company approved by the State of Texas and acceptable to the city and issued in the standard form approved by the Texas Department of Insurance. All provisions of each policy must be acceptable to the city and name the city and its officers and employees as additional insured. An original certificate of insurance must be submitted along with special event permit application.

Commercial General Liability Insurance: Must be provided with combined single limits of liability for bodily injury and property damage of not less than \$500,000 for each occurrence if the estimated attendance is between 2,501 and 4,999, and \$1,000,000 for each occurrence if the estimated attendance is 5,000 or more.

Liquor Liability Insurance: If any alcoholic beverage is sold, served, or otherwise made available at the special event, Liquor Liability Insurance must be provided by the alcoholic beverage license holder in an amount of not less than \$1,000,000 for each claim.

If any fireworks or other special effects are displayed at the special event, then separate additional general liability insurance must be provided by the pyrotechnics company in an amount of not less than \$3,000,000 for each claim.

If a special event includes vehicles, aircraft, or other equipment, devices or activities that are excluded from coverage in the general liability insurance policy, then separate additional liability insurance coverage for the applicable exclusion(s) must be provided with the same combined single limits of liability for bodily injury and property damage as outlined in the paragraph above for commercial general liability insurance.

Special Event Banners on Street Light Poles: Commercial general liability insurance must be provided with combined single limits of liability for bodily injury and property damage of not less than \$1,000,000 for each occurrence.

SECURITY, CROWD CONTROL, & TRAFFIC CONTROL

The applicant may be required to provide police officers for security, crowd control, and traffic control at the special event. The total number of police officers working at the special event is determined by the Office of Special Events, and in some cases, the Dallas Police Department, using planning variables, including: (1) the estimated number of participants and spectators; (2) the availability of alcoholic beverages; (3) topography and size of the event location; (4) weather conditions; (5) the time of day during which the special event is conducted; (6) the need for street closures or rerouting of vehicular or pedestrian traffic; and, (7) the history of the particular special event.

DENIAL OR REVOCATION

The Office of Special Events shall deny or revoke a special event permit if the applicant makes a false statement of material fact on the application or fails to comply with or the special event is in violation of any provision of the special event permit, Chapter 42A, "Special Events" of the Dallas City Code, or any other applicable law.

The special event permit shall also be denied or revoked if the special events manager, chief of police department, or the chief of the fire department determines the special event poses a serious threat to public health, safety or welfare.

If a special event permit is denied or revoked, the Office of Special Events shall send to the applicant by certified mail, return receipt requested, notice of the denial or revocation and of the right to an appeal and instructions on how to file an appeal with the Permit and License Appeal Board.

OFFENSES OR PENALTIES

An applicant/person commits an offense if he/she commences or conducts a special event without a special event permit or in violation of any provision of the special event permit, Chapter 42A, "Special Events" of the Dallas City Code, or any other applicable law.

Each offense is punishable by a fine not to exceed \$2,000 for each violation of a provision governing fire safety, zoning, public health, sanitation, including dumping of refuse; and \$500 for each violation of all other provisions.

INDEMNIFICATION

As a condition of a Special Event Permit being issued, the permit holder agrees to indemnify, defend and hold harmless the City of Dallas and all of its officers and employees against any and all suits, causes of action or claims for injuries, damages, costs and expenses to persons or property, whether public or private, that may arise out of, or be constituting a part of the special event, or any activity constituting a part of the special event, or any act, omission or misconduct of the permit holder or his agents, representatives, contractors, or employees. The permit holder agrees to discharge any and all judgments that may be rendered against the City of Dallas or its officers and employees in connection with any suit, cause of action, or claim after the judgment becomes final and unappealable.

**SIGNATURE ON THE SPECIAL EVENTS APPLICATION SIGNIFIES
ACKNOWLEDGEMENT OF RECEIPT OF THIS DOCUMENT.**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Jennifer Florence
Dawson, Justin Howell,
Adam Chesley, et al.,
Plaintiffs,

v.

City of Dallas, Texas
Defendant.

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CAUSE NO.

EXHIBIT C



City of Dallas

OFFICE OF SPECIAL EVENTS
650 S. Griffin Street, Dallas Texas 75202
(214) 939-2701 (MAIN)
(214) 939-2709 (FAX)

SPECIAL PERMIT

<u>George Glynn Wilcox</u> NAME OF APPLICANT	<u>2011-748</u> PERMIT NUMBER
<u>Monday, October 10 12A – Friday October 14 5P</u> TIME OF EVENT	<u>Monday, October 10 – Friday, October 14, 2011</u> DATE OF EVENT
<u>Pioneer Plaza Young St/Griffin St.</u> LOCATION OF EVENT	<u>Occupy Dallas</u> NAME OF EVENT

- BRIEF DETAIL OF EVENT -

Occupy Dallas is a First Amendment activity which is the local presence of a national movement that is growing. The grievances are from rising costs in health care to overwhelming student debt to the gross mishandling of the mortgage crisis to the rapidly-growing national debt to the protection of criminals with certain political and corporate ties. They will reside in Pioneer Plaza. No street closures are requested.

THIS PERMIT ISSUED SUBJECT TO THE FOLLOWING CONDITIONS AND/OR RESTRICTIONS

This Special Event Permit will be null and void, if all stipulations and requirements are not met.

The Applicant is responsible for the following:

1. This is a First Amendment activity and approval has been provided for the use of Pioneer Plaza thru Friday, October 14 at 5:00 P.
2. A Special Event Permit does not override the City Noise Ordinance.
3. Clean-up of the event site and area must be completed by Friday, October 14 at 5:00 P.
4. Provide the Office of Special Events with a certificate of general liability insurance in the minimum amount of \$1,000,000 showing the City of Dallas as certificate holder and the City of Dallas, its officers, employees and appointed representatives as additionally insured.
5. The insurance must be provided to the City of Dallas Office of Special Events by Tuesday, October 11, 2011 by 5:00 P or this permit is subject to being revoked.
6. Ensure all food and beverages are served in paper or plastic containers -- glass is prohibited.


Lori C. Chance, Special Events Manager

October 10, 2011
Date



DALLAS FIRE-RESCUE DEPARTMENT
Inspection & Life Safety Education
Fire Code Requirements for
Tents and Other Membrane Structures

1551 Baylor Street, Suite 400
Telephone: (214) 670-4319
FAX: (214) 670-4324

This checklist provides some of the basic regulations governing the operation of **Tents and Other Membrane Structures**. It is not possible to cover all regulations. If you have a particular question or concern, please telephone or FAX the Dallas Fire-Rescue Department. The initial inspection is conducted at no charge. There is no charge for the first reinspection. The second reinspection is subject to a \$100.00 fee, with all reinspections after the second, subject to a \$105.00 fee. When this checklist refers to tents, the regulations also govern canopies, air-supported, or other membrane structures.

1. Plans.

- A. If a tent is to be erected at a location, 3 sets of plans showing the details of the tent placement must be submitted to Inspection & Life Safety Education at least 15 days prior to the scheduled opening of the show. See "Tent Permit Plan Review Submittal Requirements" handout for more details on how to submit plans and how to obtain a tent permit.
- (1) Floor plan for tents: seating capacity, arrangement and location of seating, and type of heating and electrical equipment, etc.
 - (2) Fire extinguisher equipment: location and nature.
 - (3) Dates: for move in, move out and times open to public.
 - (4) Contacts: persons' names and telephone numbers.
- B. Tents and all decorations including awnings, drapes, table skirts, curtains and other decorative material must be of flame-resistant material. Certification of flame-resistance must be provided when submitting the plans.

2. Permits

- A. Tents and canopies (in excess of 399 square feet) must have a permit from Inspection & Life Safety Education (214/ 670-4319). Permit must be obtained when submitting plans.
- B. Liquid Petroleum Gas for demonstration purposes or for cooking purposes must be approved and permitted by the Fire Marshal.
- C. Open flames and burning or smoke emitting materials must be approved and permitted by the Fire Marshal prior to the event.
- D. Special effects materials, pyrotechnics and fireworks must be approved and permitted by the Fire Marshal.
- E. Welding and cutting equipment and use must be approved and permitted by the Fire Marshal. Other permits may apply. Contact Dallas Fire-Rescue for more information.

3. Location of Tents

- A. Tents shall not be located within 20 feet of property lines, buildings, parked vehicles or internal combustion engines.
- B. Tents having an area of 15,000 square feet or more shall be located not less than 50 feet from any other tent.
- C. Tents where cooking is performed shall be separated from other tents by a minimum of 20 feet.
- D. Tents must be adequately braced and anchored to prevent collapse. Documentation of structural stability shall be furnished upon request.

4. Exits

- A. Exits shall be spaced at equal intervals around the perimeter of the tent and shall be located such that all points are 100 feet or less from an exit.
- B. Exit openings from tents must remain open unless covered by a flame-resistant curtain.
- C. Exit ways must be kept clear of obstructions at all times, with adequate aisle widths provided.
- D. Exits must be clearly marked. Exit signs shall be of an approved type (self-luminous or internally or externally illuminated by an approved source).

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- E. Curtains, drapes, or decorations shall not visually or physically obstruct exit doors, exit signs, fire alarms, hose cabinets, standpipes, fire extinguishers, or any other life safety equipment at any time.

5. Fire Access

- A. Fire lanes shall not be obstructed or barricaded at any time in any manner.
- B. Fire hydrants and fire department connections must be maintained with a 3-foot clearance and no parking within 15 ft. of fire hydrant.
- C. An unobstructed fire break passageway or fire road not less than 12 feet wide and free from obstructions must be maintained on all sides of all tents.

6. Sources of Ignition

- A. "NO SMOKING" signs shall be posted throughout structure.
- B. Open flame, flammable or combustibles liquids or cooking devices are not permitted inside or allowed within 20 feet of the tent unless approved by the Fire Marshal. A minimum separation of 4 feet between the flame in the cooking equipment and the tent material is required.
- C. Hay and straw used for decoration must be flame retardant. Hay and straw used for feeding must be stored and maintained in a manner approved by the Fire Marshal. Maintain areas within 20 feet of the structure clear of all combustible materials.
- D. Sawdust and shavings must be maintained flameproof at all times, by wetting down each day.
- E. Cooking and heating equipment shall not be located within 10 feet of exits or combustible materials.
- F. Candles are prohibited inside tents.
- G. Combustible trash shall be removed at least once a day.

7. Fire Extinguishers

- A. Typically, a 2A-10BC rated fire extinguisher shall be provided for every 3,000 square feet of floor space and within 75 feet of travel. The extinguisher must be serviced and tagged annually.
- B. A Class K rated fire extinguisher shall be provided within 30 feet of food processing equipment that produces grease-laden vapors. (Existing 40-BC rated fire extinguishers installed prior to 07/01/04 that are serviceable and maintained are permitted.) The extinguishers must be serviced and tagged annually.

8. Equipment

- A. Secure compressed gas cylinders to prevent cylinders from falling or being knocked over.
- B. Heating devices shall be installed in accordance with the Building and Mechanical Code. Electrical wiring of a temporary nature shall be installed in accordance with the Electrical Code.
- C. Commercial cooking appliances shall be installed in accordance with the Mechanical and Plumbing Codes, and be equipped with ventilation hoods and approved automatic extinguishing systems. All other cooking equipment shall have separation from combustible materials, or non-combustible shielding, as approved by the Fire Marshal.
- D. Generators and other internal combustion power sources shall be separated from tents by a minimum of 20 feet and shall be fenced or enclosed by approved means to isolate from the public.
- E. Refueling must be approved by the Fire Marshal and shall be performed in an approved location not less than 20 feet from tents.

9. Miscellaneous

- A. Fire watch personnel may be required at the discretion of the Fire Marshal.
- B. Occupant load must be posted in a conspicuous place near the main exit.