

## **AFFIDAVIT OF JAMES P. O'BRIEN**

I, the undersigned James P. O'Brien, do hereby depose and state:

1. I am over the age of 18 and have personal knowledge of all matters stated herein.
2. I am the General Manager of the Essex Agricultural Society ("EAS"), the organization that operates the Topsfield Fair each fall. I have held the position of General Manager since 2005, prior to which I was on EAS's Board of Directors for more than a decade. Since the 1970s, I have been involved with the Topsfield Fair, at first camping with the Boy Scouts at the fairgrounds, and later as Manager of the Fair's Fruit Department.
3. Camping has been an integral part of the operation of the fairgrounds for as long as I can remember, not only during the annual Topsfield Fair, but also at other times during the year.
4. For example, I personally camped with the Boy Scouts in the 1970s. That activity has continued to the present day, typically in both the spring and winter months.
5. I have also reviewed numerous records and had numerous conversations with people who used the fairgrounds before I was born, both suggesting that camping occurred on the fairgrounds as far back as the early 20<sup>th</sup> century, if not earlier.
6. For example, prior to my tenure as Fruit Department Manager at the Fair, I worked for Brooksby Farm with a gentleman by the name of Richard Pierce. He would tell me about camping on the fairgrounds in the 1920s.
7. I have also reviewed many business records, historical documents, and old photographs over the course of my more than four decades of involvement with EAS and the Fair, which have cumulatively led me to believe that camping has been taking place at the fairgrounds, on-fair and off-fair, for at least 100 years, and probably for longer.
8. While camping by the Boy Scouts has been exclusively conducted in tents, see photograph of camping by scouts circa 1968, annexed hereto as **Exhibit A**, other camping conducted throughout the year and during the Topsfield Fair has included a mix of tent and RV camping. This has been the case for as far back as I can remember, although RV and other more comfortable versions of camping have certainly become more popular in the last 20 years or so.
9. In addition, there are Town water and electricity utilities throughout the fairgrounds that have always been used for camping, at least as far back as I remember. While the utilities have occasionally been upgraded or repaired, I believe those utilities have been present at the fairgrounds for as long as water and electric utilities have been available to the public in the Town of Topsfield.
10. The upcoming Soul Fest event is actually a much smaller event than the Topsfield Fair. I believe that the event is of interest to the Board of Health because camping will occur in Lot E, see map of the Soul Fest event, also submitted to the Board of Health, annexed hereto as **Exhibit B**, which is an area of the fairgrounds typically used for parking during the annual Fair.

Because Lot E is more than 500 feet from our shower facilities, the Board of Health asked that we make showers available within a 500-foot radius. We have made arrangements to do so.

11. In terms of numbers, approximately 171 tent camping sites and approximately 50 RV camping sites are anticipated for the upcoming Soul Fest event (i.e., these numbers are subject to change as a result of Board of Health input). By comparison, the annual Fair now hosts primarily RV camping, with between 100 and 200 camping passes being sold each year.

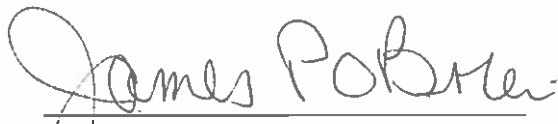
12. The Building Inspector's determination that the camping planned for Soul Fest is not allowed is contrary to and fails to recognize the history of camping that has occurred and continues to occur annually, at the Topsfield Fair and otherwise, on the fairgrounds.

13. If the Building Inspector's determination is not vacated, and an injunction cannot be obtained, EAS will lose tens of thousands of dollars in revenue this year, and many multiples of that in the years ahead. In a typical year, the fairgrounds is host to approximately five events of a comparable size to Soul Fest. These events often include camping. These bookings and the revenues they represent will be lost, and EAS – a non-profit organization – will not be able to sustain itself financially unless those revenues are replaced, which may or may not be possible. Also, if the Soul Fest event is cancelled, tickets and a venue deposit will have to be refunded and vendors/performers may seek recourse against EAS.

14. EAS will also suffer reputational harm, the extent of which is not entirely known, if the Building Inspector's determination is not reversed. Organizations that seek to host events with camping will not book events at the fairgrounds. Other organizations may fear that their events will be cancelled last-minute based on actions by the Town, and may look elsewhere for event locations.

15. Affirming the Building Inspector's decision may effectively force EAS to cease operation, which would mean cancelling the Topsfield Fair. This would be a tremendous injustice to EAS, fairgoers, those utilizing the fairgrounds for other events, and even the Town, given the historical significance of the Topsfield Fair and the fairgrounds generally. That is particularly so where operation of the fairgrounds on-Fair and off-Fair has always been a recognized lawful pre-existing use, including recognition by the Zoning Board of Appeals in its decisions in 2009, 2013, 2014, and 2021. Camping is and always has been an integral part of that use.

SWORN UNDER THE PAINS AND PENALTIES OF PERJURY THIS 20TH DAY OF JUNE, 2023.

  
James P. O'Brien

# **EXHIBIT A**





# **EXHIBIT B**



# SOULFEST

6/1/23



## Key



30' x 30' campsite  
Avg. of 5 campers



15' x 30' campsite  
Avg. of 2.5 campers



Trash & Recycling: Each location will have 3 trash cans & 2 recycling bins; total twenty-five (25) bins



Toilets: four (4) standard & two (2) ADA in two locations, total twelve (12) toilets



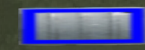
Portable Toilets



Hand washing stations: one (1) located at each toilet area, total of two (2) hand wash stations



Showers: two (2) eight-stall shower trailers separated by gender



Shower Trailer



Motor Vehicle Access:

- Sites 1 - 24: two-way access
- Sites 25 - 174: one-way access; traveling into the campground taking a right until they find the correct row as indicated on the map they will receive and then continuing in the same direction of travel and taking lefts until they reach the exit of the campground.

